

Appendix A
Second Substitute Senate Bill 6823

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CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 6823

Chapter 302, Laws of 2006

59th Legislature
2006 Regular Session

BEER AND WINE DISTRIBUTION

EFFECTIVE DATE: 4/14/06 - Except sections 10 and 12, which become effective 7/1/06.

Passed by the Senate February 9, 2006
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 2, 2006
YEAS 98 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 6823** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

Approved March 29, 2006.

FILED

March 29, 2006 - 3:45 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 6823

Passed Legislature - 2006 Regular Session

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senator Kohl-Welles; by request of Liquor Control Board)

READ FIRST TIME 02/7/06.

1 AN ACT Relating to the distribution of beer and wine by wineries
2 and breweries located inside and outside Washington state to Washington
3 retail liquor licensees; amending RCW 66.24.170, 66.24.240, 66.24.206,
4 66.24.210, 66.24.270, 66.24.290, 66.28.180, and 42.56.270; reenacting
5 and amending RCW 66.24.244, 66.28.070, 66.28.180, and 42.17.310;
6 creating a new section; providing effective dates; providing expiration
7 dates; and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 **Sec. 1.** RCW 66.24.170 and 2003 c 44 s 1 are each amended to read
10 as follows:

11 (1) There shall be a license for domestic wineries; fee to be
12 computed only on the liters manufactured: Less than two hundred fifty
13 thousand liters per year, one hundred dollars per year; and two hundred
14 fifty thousand liters or more per year, four hundred dollars per year.

15 (2) The license allows for the manufacture of wine in Washington
16 state from grapes or other agricultural products.

17 (3) Any domestic winery licensed under this section may also act as
18 a (~~distributor and/or~~) retailer of wine of its own production. Any
19 domestic winery licensed under this section may act as a distributor of

1 its own production. Any winery operating as a distributor and/or
2 retailer under this subsection shall comply with the applicable laws
3 and rules relating to distributors and/or retailers.

4 (4) A domestic winery licensed under this section, at locations
5 separate from any of its production or manufacturing sites, may serve
6 samples of its own products, with or without charge, and sell wine of
7 its own production at retail for off-premise consumption, provided
8 that: (a) Each additional location has been approved by the board
9 under RCW 66.24.010; (b) the total number of additional locations does
10 not exceed two; and (c) a winery may not act as a distributor at any
11 such additional location. Each additional location is deemed to be
12 part of the winery license for the purpose of this title. Nothing in
13 this subsection shall be construed to prevent a domestic winery from
14 holding multiple domestic winery licenses.

15 (5)(a) A domestic winery licensed under this section may apply to
16 the board for an endorsement to sell wine of its own production at
17 retail for off-premises consumption at a qualifying farmers market.
18 The annual fee for this endorsement is seventy-five dollars. An
19 endorsement issued pursuant to this subsection does not count toward
20 the two additional retail locations limit specified in this section.

21 (b) For each month during which a domestic winery will sell wine at
22 a qualifying farmers market, the winery must provide the board or its
23 designee a list of the dates, times, and locations at which bottled
24 wine may be offered for sale. This list must be received by the board
25 before the winery may offer wine for sale at a qualifying farmers
26 market.

27 (c) The wine sold at qualifying farmers markets must be made
28 entirely from grapes grown in a recognized Washington appellation or
29 from other agricultural products grown in this state.

30 (d) Each approved location in a qualifying farmers market is deemed
31 to be part of the winery license for the purpose of this title. The
32 approved locations under an endorsement granted under this subsection
33 do not include the tasting or sampling privilege of a winery. The
34 winery may not store wine at a farmers market beyond the hours that the
35 winery offers bottled wine for sale. The winery may not act as a
36 distributor from a farmers market location.

37 (e) Before a winery may sell bottled wine at a qualifying farmers
38 market, the farmers market must apply to the board for authorization

1 for any winery with an endorsement approved under this subsection to
2 sell bottled wine at retail at the farmers market. This application
3 shall include, at a minimum: (i) A map of the farmers market showing
4 all booths, stalls, or other designated locations at which an approved
5 winery may sell bottled wine; and (ii) the name and contact information
6 for the on-site market managers who may be contacted by the board or
7 its designee to verify the locations at which bottled wine may be sold.
8 Before authorizing a qualifying farmers market to allow an approved
9 winery to sell bottled wine at retail at its farmers market location,
10 the board shall notify the persons or entities of such application for
11 authorization pursuant to RCW 66.24.010 (8) and (9). An authorization
12 granted under this subsection (5)(e) may be withdrawn by the board for
13 any violation of this title or any rules adopted under this title.

14 (f) The board may adopt rules establishing the application and
15 approval process under this section and such additional rules as may be
16 necessary to implement this section.

17 (g) For the purposes of this subsection:

18 (i) "Qualifying farmers market" means an entity that sponsors a
19 regular assembly of vendors at a defined location for the purpose of
20 promoting the sale of agricultural products grown or produced in this
21 state directly to the consumer under conditions that meet the following
22 minimum requirements:

23 (A) There are at least five participating vendors who are farmers
24 selling their own agricultural products;

25 (B) The total combined gross annual sales of vendors who are
26 farmers exceeds the total combined gross annual sales of vendors who
27 are processors or resellers;

28 (C) The total combined gross annual sales of vendors who are
29 farmers, processors, or resellers exceeds the total combined gross
30 annual sales of vendors who are not farmers, processors, or resellers;

31 (D) The sale of imported items and secondhand items by any vendor
32 is prohibited; and

33 (E) No vendor is a franchisee.

34 (ii) "Farmer" means a natural person who sells, with or without
35 processing, agricultural products that he or she raises on land he or
36 she owns or leases in this state or in another state's county that
37 borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

(6) Wine produced in Washington state by a domestic winery licensee may be shipped out-of-state for the purpose of making it into sparkling wine and then returned to such licensee for resale. Such wine shall be deemed wine manufactured in the state of Washington for the purposes of RCW 66.24.206, and shall not require a special license.

Sec. 2. RCW 66.24.240 and 2003 c 154 s 1 are each amended to read as follows:

(1) There shall be a license for domestic breweries; fee to be two thousand dollars for production of sixty thousand barrels or more of malt liquor per year.

(2) Any domestic brewery, except for a brand owner of malt beverages under RCW 66.04.010(~~((+5+))~~) (6), licensed under this section may also act as a (~~((distributor and/or))~~) retailer for beer of its own production. Any domestic brewery licensed under this section may act as a distributor for beer of its own production. Any domestic brewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers.

(3) Any domestic brewery licensed under this section may contract-produce beer for a brand owner of malt beverages defined under RCW 66.04.010(~~((+5+))~~) (6), and this contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180.

(4)(a) A domestic brewery licensed under this section and qualified for a reduced rate of taxation pursuant to RCW 66.24.290(3)(b) may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a domestic brewery will sell beer at a qualifying farmers market, the domestic brewery must provide the board or its designee a list of the dates, times, and locations at

1 which bottled beer may be offered for sale. This list must be received
2 by the board before the domestic brewery may offer beer for sale at a
3 qualifying farmers market.

4 (c) The beer sold at qualifying farmers markets must be produced in
5 Washington.

6 (d) Each approved location in a qualifying farmers market is deemed
7 to be part of the domestic brewery license for the purpose of this
8 title. The approved locations under an endorsement granted under this
9 subsection do not include the tasting or sampling privilege of a
10 domestic brewery. The domestic brewery may not store beer at a farmers
11 market beyond the hours that the domestic brewery offers bottled beer
12 for sale. The domestic brewery may not act as a distributor from a
13 farmers market location.

14 (e) Before a domestic brewery may sell bottled beer at a qualifying
15 farmers market, the farmers market must apply to the board for
16 authorization for any domestic brewery with an endorsement approved
17 under this subsection to sell bottled beer at retail at the farmers
18 market. This application shall include, at a minimum: (i) A map of
19 the farmers market showing all booths, stalls, or other designated
20 locations at which an approved domestic brewery may sell bottled beer;
21 and (ii) the name and contact information for the on-site market
22 managers who may be contacted by the board or its designee to verify
23 the locations at which bottled beer may be sold. Before authorizing a
24 qualifying farmers market to allow an approved domestic brewery to sell
25 bottled beer at retail at its farmers market location, the board shall
26 notify the persons or entities of such application for authorization
27 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under
28 this subsection (4)(e) may be withdrawn by the board for any violation
29 of this title or any rules adopted under this title.

30 (f) The board may adopt rules establishing the application and
31 approval process under this section and such additional rules as may be
32 necessary to implement this section.

33 (g) For the purposes of this subsection:

34 (i) "Qualifying farmers market" means an entity that sponsors a
35 regular assembly of vendors at a defined location for the purpose of
36 promoting the sale of agricultural products grown or produced in this
37 state directly to the consumer under conditions that meet the following
38 minimum requirements:

1 (A) There are at least five participating vendors who are farmers
2 selling their own agricultural products;

3 (B) The total combined gross annual sales of vendors who are
4 farmers exceeds the total combined gross annual sales of vendors who
5 are processors or resellers;

6 (C) The total combined gross annual sales of vendors who are
7 farmers, processors, or resellers exceeds the total combined gross
8 annual sales of vendors who are not farmers, processors, or resellers;

9 (D) The sale of imported items and secondhand items by any vendor
10 is prohibited; and

11 (E) No vendor is a franchisee.

12 (ii) "Farmer" means a natural person who sells, with or without
13 processing, agricultural products that he or she raises on land he or
14 she owns or leases in this state or in another state's county that
15 borders this state.

16 (iii) "Processor" means a natural person who sells processed food
17 that he or she has personally prepared on land he or she owns or leases
18 in this state or in another state's county that borders this state.

19 (iv) "Reseller" means a natural person who buys agricultural
20 products from a farmer and resells the products directly to the
21 consumer.

22 **Sec. 3.** RCW 66.24.244 and 2003 c 167 s 1 and 2003 c 154 s 2 are
23 each reenacted and amended to read as follows:

24 (1) There shall be a license for microbreweries; fee to be one
25 hundred dollars for production of less than sixty thousand barrels of
26 malt liquor, including strong beer, per year.

27 (2) Any microbrewery license under this section may also act as a
28 distributor and/or retailer for beer and strong beer of its own
29 production. Any microbrewery licensed under this section may act as a
30 distributor for beer of its own production. Strong beer may not be
31 sold at a farmers market or under any endorsement which may authorize
32 microbreweries to sell beer at farmers markets. Any microbrewery
33 operating as a distributor and/or retailer under this subsection shall
34 comply with the applicable laws and rules relating to distributors
35 and/or retailers.

36 (3) The board may issue an endorsement to this license allowing for
37 on-premises consumption of beer, including strong beer, wine, or both

1 of other manufacture if purchased from a Washington state-licensed
2 distributor. Each endorsement shall cost two hundred dollars per year,
3 or four hundred dollars per year allowing the sale and service of both
4 beer and wine.

5 (4) The microbrewer obtaining such endorsement must determine, at
6 the time the endorsement is issued, whether the licensed premises will
7 be operated either as a tavern with persons under twenty-one years of
8 age not allowed as provided for in RCW 66.24.330, or as a beer and/or
9 wine restaurant as described in RCW 66.24.320.

10 (5)(a) A microbrewery licensed under this section may apply to the
11 board for an endorsement to sell bottled beer of its own production at
12 retail for off-premises consumption at a qualifying farmers market.
13 The annual fee for this endorsement is seventy-five dollars.

14 (b) For each month during which a microbrewery will sell beer at a
15 qualifying farmers market, the microbrewery must provide the board or
16 its designee a list of the dates, times, and locations at which bottled
17 beer may be offered for sale. This list must be received by the board
18 before the microbrewery may offer beer for sale at a qualifying farmers
19 market.

20 (c) The beer sold at qualifying farmers markets must be produced in
21 Washington.

22 (d) Each approved location in a qualifying farmers market is deemed
23 to be part of the microbrewery license for the purpose of this title.
24 The approved locations under an endorsement granted under this
25 subsection (5) do not constitute the tasting or sampling privilege of
26 a microbrewery. The microbrewery may not store beer at a farmers
27 market beyond the hours that the microbrewery offers bottled beer for
28 sale. The microbrewery may not act as a distributor from a farmers
29 market location.

30 (e) Before a microbrewery may sell bottled beer at a qualifying
31 farmers market, the farmers market must apply to the board for
32 authorization for any microbrewery with an endorsement approved under
33 this subsection (5) to sell bottled beer at retail at the farmers
34 market. This application shall include, at a minimum: (i) A map of
35 the farmers market showing all booths, stalls, or other designated
36 locations at which an approved microbrewery may sell bottled beer; and
37 (ii) the name and contact information for the on-site market managers
38 who may be contacted by the board or its designee to verify the

1 locations at which bottled beer may be sold. Before authorizing a
2 qualifying farmers market to allow an approved microbrewery to sell
3 bottled beer at retail at its farmers market location, the board shall
4 notify the persons or entities of the application for authorization
5 pursuant to RCW 66.24.010 (8) and (9). An authorization granted under
6 this subsection (5)(e) may be withdrawn by the board for any violation
7 of this title or any rules adopted under this title.

8 (f) The board may adopt rules establishing the application and
9 approval process under this section and any additional rules necessary
10 to implement this section.

11 (g) For the purposes of this subsection (5):

12 (i) "Qualifying farmers market" means an entity that sponsors a
13 regular assembly of vendors at a defined location for the purpose of
14 promoting the sale of agricultural products grown or produced in this
15 state directly to the consumer under conditions that meet the following
16 minimum requirements:

17 (A) There are at least five participating vendors who are farmers
18 selling their own agricultural products;

19 (B) The total combined gross annual sales of vendors who are
20 farmers exceeds the total combined gross annual sales of vendors who
21 are processors or resellers;

22 (C) The total combined gross annual sales of vendors who are
23 farmers, processors, or resellers exceeds the total combined gross
24 annual sales of vendors who are not farmers, processors, or resellers;

25 (D) The sale of imported items and secondhand items by any vendor
26 is prohibited; and

27 (E) No vendor is a franchisee.

28 (ii) "Farmer" means a natural person who sells, with or without
29 processing, agricultural products that he or she raises on land he or
30 she owns or leases in this state or in another state's county that
31 borders this state.

32 (iii) "Processor" means a natural person who sells processed food
33 that he or she has personally prepared on land he or she owns or leases
34 in this state or in another state's county that borders this state.

35 (iv) "Reseller" means a natural person who buys agricultural
36 products from a farmer and resells the products directly to the
37 consumer.

1 **Sec. 4.** RCW 66.24.206 and 2004 c 160 s 4 are each amended to read
2 as follows:

3 (1)(a) A United States winery (~~((or manufacturer of wine))~~) located
4 outside the state of Washington must hold a certificate of approval to
5 allow sales and shipment of the certificate of approval holder's wine
6 to licensed Washington wine distributors (~~((or))~~), importers, or
7 retailers. A certificate of approval holder with a direct shipment
8 endorsement may act as a distributor of its own production.

9 (b) Authorized representatives must hold a certificate of approval
10 to allow sales and shipment of United States produced wine to licensed
11 Washington wine distributors or importers.

12 (c) Authorized representatives must also hold a certificate of
13 approval to allow sales and shipments of foreign produced wine to
14 licensed Washington wine distributors or importers.

15 (2) The certificate of approval shall not be granted unless and
16 until such winery or manufacturer of wine or authorized representative
17 shall have made a written agreement with the board to furnish to the
18 board, on or before the twentieth day of each month, a report under
19 oath, on a form to be prescribed by the board, showing the quantity of
20 wine sold or delivered to each licensed wine distributor (~~((or))~~),
21 importer, or retailer, during the preceding month, and shall further
22 have agreed with the board, that such wineries, manufacturers, or
23 authorized representatives, and all general sales corporations or
24 agencies maintained by them, and all of their trade representatives,
25 shall and will faithfully comply with all laws of the state of
26 Washington pertaining to the sale of intoxicating liquors and all rules
27 and regulations of the Washington state liquor control board. A
28 violation of the terms of this agreement will cause the board to take
29 action to suspend or revoke such certificate.

30 (3) The fee for the certificate of approval and related
31 endorsements, issued pursuant to the provisions of this title, shall be
32 from time to time established by the board at a level that is
33 sufficient to defray the costs of administering the certificate of
34 approval program. The fee shall be fixed by rule by the board in
35 accordance with the provisions of the administrative procedure act,
36 chapter 34.05 RCW.

37 (4) Certificate of approval holders are deemed to have consented to

1 the jurisdiction of Washington concerning enforcement of this chapter
2 and all laws and rules related to the sale and shipment of wine.

3 **Sec. 5.** RCW 66.24.210 and 2001 c 124 s 1 are each amended to read
4 as follows:

5 (1) There is hereby imposed upon all wines except cider sold to
6 wine distributors and the Washington state liquor control board, within
7 the state a tax at the rate of twenty and one-fourth cents per liter.
8 Any domestic winery or certificate of approval holder acting as a
9 distributor of its own production shall pay taxes imposed by this
10 section. There is hereby imposed on all cider sold to wine
11 distributors and the Washington state liquor control board within the
12 state a tax at the rate of three and fifty-nine one-hundredths cents
13 per liter: PROVIDED, HOWEVER, That wine sold or shipped in bulk from
14 one winery to another winery shall not be subject to such tax.

15 (a) The tax provided for in this section shall be collected by
16 direct payments based on wine purchased by wine distributors.

17 (b) Every person purchasing wine under the provisions of this
18 section shall on or before the twentieth day of each month report to
19 the board all purchases during the preceding calendar month in such
20 manner and upon such forms as may be prescribed by the board, and with
21 such report shall pay the tax due from the purchases covered by such
22 report unless the same has previously been paid. Any such purchaser of
23 wine whose applicable tax payment is not postmarked by the twentieth
24 day following the month of purchase will be assessed a penalty at the
25 rate of two percent a month or fraction thereof. The board may require
26 that every such person shall execute to and file with the board a bond
27 to be approved by the board, in such amount as the board may fix,
28 securing the payment of the tax. If any such person fails to pay the
29 tax when due, the board may forthwith suspend or cancel the license
30 until all taxes are paid.

31 (c) Any licensed retailer authorized to purchase wine from a
32 certificate of approval holder with a direct shipment endorsement or a
33 domestic winery shall make monthly reports to the liquor control board
34 on wine purchased during the preceding calendar month in the manner and
35 upon such forms as may be prescribed by the board.

36 (2) An additional tax is imposed equal to the rate specified in RCW
37 82.02.030 multiplied by the tax payable under subsection (1) of this

1 section. All revenues collected during any month from this additional
2 tax shall be transferred to the state general fund by the twenty-fifth
3 day of the following month.

4 (3) An additional tax is imposed on wines subject to tax under
5 subsection (1) of this section, at the rate of one-fourth of one cent
6 per liter for wine sold after June 30, 1987. After June 30, 1996, such
7 additional tax does not apply to cider. An additional tax of five one-
8 hundredths of one cent per liter is imposed on cider sold after June
9 30, 1996. All revenues collected under this subsection (3) shall be
10 disbursed quarterly to the Washington wine commission for use in
11 carrying out the purposes of chapter 15.88 RCW.

12 (4) An additional tax is imposed on all wine subject to tax under
13 subsection (1) of this section. The additional tax is equal to twenty-
14 three and forty-four one-hundredths cents per liter on fortified wine
15 as defined in RCW 66.04.010(~~((+38+))~~) (39) when bottled or packaged by
16 the manufacturer, one cent per liter on all other wine except cider,
17 and eighteen one-hundredths of one cent per liter on cider. All
18 revenues collected during any month from this additional tax shall be
19 deposited in the violence reduction and drug enforcement account under
20 RCW 69.50.520 by the twenty-fifth day of the following month.

21 (5)(a) An additional tax is imposed on all cider subject to tax
22 under subsection (1) of this section. The additional tax is equal to
23 two and four one-hundredths cents per liter of cider sold after June
24 30, 1996, and before July 1, 1997, and is equal to four and seven one-
25 hundredths cents per liter of cider sold after June 30, 1997.

26 (b) All revenues collected from the additional tax imposed under
27 this subsection (5) shall be deposited in the health services account
28 under RCW 43.72.900.

29 (6) For the purposes of this section, "cider" means table wine that
30 contains not less than one-half of one percent of alcohol by volume and
31 not more than seven percent of alcohol by volume and is made from the
32 normal alcoholic fermentation of the juice of sound, ripe apples or
33 pears. "Cider" includes, but is not limited to, flavored, sparkling,
34 or carbonated cider and cider made from condensed apple or pear must.

35 **Sec. 6.** RCW 66.24.270 and 2004 c 160 s 8 are each amended to read
36 as follows:

37 (1) Every person, firm or corporation, holding a license to

1 manufacture malt liquors or strong beer within the state of Washington,
2 shall, on or before the twentieth day of each month, furnish to the
3 Washington state liquor control board, on a form to be prescribed by
4 the board, a statement showing the quantity of malt liquors and strong
5 beer sold for resale during the preceding calendar month to each beer
6 distributor within the state of Washington.

7 (2)(a) A United States brewery or manufacturer of beer or strong
8 beer, located outside the state of Washington, must hold a certificate
9 of approval to allow sales and shipment of the certificate of approval
10 holder's beer or strong beer to licensed Washington beer distributors
11 ~~((or)),~~ importers, or retailers. A certificate of approval holder with
12 a direct shipment endorsement may act as a distributor for beer of its
13 own production.

14 (b) Authorized representatives must hold a certificate of approval
15 to allow sales and shipment of United States produced beer or strong
16 beer to licensed Washington beer distributors or importers.

17 (c) Authorized representatives must also hold a certificate of
18 approval to allow sales and shipments of foreign produced beer or
19 strong beer to licensed Washington beer distributors or importers.

20 (3) The certificate of approval shall not be granted unless and
21 until such brewer or manufacturer of beer or strong beer or authorized
22 representative shall have made a written agreement with the board to
23 furnish to the board, on or before the twentieth day of each month, a
24 report under oath, on a form to be prescribed by the board, showing the
25 quantity of beer and strong beer sold or delivered to each licensed
26 beer distributor ~~((or)),~~ importer, or retailer during the preceding
27 month, and shall further have agreed with the board, that such brewer
28 or manufacturer of beer or strong beer or authorized representative and
29 all general sales corporations or agencies maintained by them, and all
30 of their trade representatives, corporations, and agencies, shall and
31 will faithfully comply with all laws of the state of Washington
32 pertaining to the sale of intoxicating liquors and all rules and
33 regulations of the Washington state liquor control board. A violation
34 of the terms of this agreement will cause the board to take action to
35 suspend or revoke such certificate.

36 (4) The fee for the certificate of approval and related
37 endorsements, issued pursuant to the provisions of this title, shall be
38 from time to time established by the board at a level that is

1 sufficient to defray the costs of administering the certificate of
2 approval program. The fee shall be fixed by rule by the board in
3 accordance with the provisions of the administrative procedure act,
4 chapter 34.05 RCW.

5 (5) Certificate of approval holders are deemed to have consented to
6 the jurisdiction of Washington concerning enforcement of this chapter
7 and all laws and rules related to the sale and shipment of beer.

8 **Sec. 7.** RCW 66.24.290 and 2003 c 167 s 5 are each amended to read
9 as follows:

10 (1) Any microbrewer or domestic brewery or beer distributor
11 licensed under this title may sell and deliver beer and strong beer to
12 holders of authorized licenses direct, but to no other person, other
13 than the board(~~(; and)~~). Any certificate of approval holder authorized
14 to act as a distributor under RCW 66.24.270 shall pay the taxes imposed
15 by this section.

16 (a) Every such brewery or beer distributor shall report all sales
17 to the board monthly, pursuant to the regulations, and shall pay to the
18 board as an added tax for the privilege of manufacturing and selling
19 the beer and strong beer within the state a tax of one dollar and
20 thirty cents per barrel of thirty-one gallons on sales to licensees
21 within the state and on sales to licensees within the state of bottled
22 and canned beer, including strong beer, shall pay a tax computed in
23 gallons at the rate of one dollar and thirty cents per barrel of
24 thirty-one gallons.

25 (b) Any brewery or beer distributor whose applicable tax payment is
26 not postmarked by the twentieth day following the month of sale will be
27 assessed a penalty at the rate of two percent per month or fraction
28 thereof. Beer and strong beer shall be sold by breweries and
29 distributors in sealed barrels or packages.

30 (c) The moneys collected under this subsection shall be distributed
31 as follows: (~~((a))~~) (i) Three-tenths of a percent shall be distributed
32 to border areas under RCW 66.08.195; and (~~((b))~~) (ii) of the remaining
33 moneys: (~~((i))~~) (A) Twenty percent shall be distributed to counties in
34 the same manner as under RCW 66.08.200; and (~~((ii))~~) (B) eighty percent
35 shall be distributed to incorporated cities and towns in the same
36 manner as under RCW 66.08.210.

1 (d) Any licensed retailer authorized to purchase beer from a
2 certificate of approval holder with a direct shipment endorsement or a
3 brewery or microbrewery shall make monthly reports to the liquor
4 control board on beer purchased during the preceding calendar month in
5 the manner and upon such forms as may be prescribed by the board.

6 (2) An additional tax is imposed on all beer and strong beer
7 subject to tax under subsection (1) of this section. The additional
8 tax is equal to two dollars per barrel of thirty-one gallons. All
9 revenues collected during any month from this additional tax shall be
10 deposited in the violence reduction and drug enforcement account under
11 RCW 69.50.520 by the twenty-fifth day of the following month.

12 (3)(a) An additional tax is imposed on all beer and strong beer
13 subject to tax under subsection (1) of this section. The additional
14 tax is equal to ninety-six cents per barrel of thirty-one gallons
15 through June 30, 1995, two dollars and thirty-nine cents per barrel of
16 thirty-one gallons for the period July 1, 1995, through June 30, 1997,
17 and four dollars and seventy-eight cents per barrel of thirty-one
18 gallons thereafter.

19 (b) The additional tax imposed under this subsection does not apply
20 to the sale of the first sixty thousand barrels of beer each year by
21 breweries that are entitled to a reduced rate of tax under 26 U.S.C.
22 Sec. 5051, as existing on July 1, 1993, or such subsequent date as may
23 be provided by the board by rule consistent with the purposes of this
24 exemption.

25 (c) All revenues collected from the additional tax imposed under
26 this subsection (3) shall be deposited in the health services account
27 under RCW 43.72.900.

28 (4) An additional tax is imposed on all beer and strong beer that
29 is subject to tax under subsection (1) of this section that is in the
30 first sixty thousand barrels of beer and strong beer by breweries that
31 are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as
32 existing on July 1, 1993, or such subsequent date as may be provided by
33 the board by rule consistent with the purposes of the exemption under
34 subsection (3)(b) of this section. The additional tax is equal to one
35 dollar and forty-eight and two-tenths cents per barrel of thirty-one
36 gallons. By the twenty-fifth day of the following month, three percent
37 of the revenues collected from this additional tax shall be distributed

1 to border areas under RCW 66.08.195 and the remaining moneys shall be
2 transferred to the state general fund.

3 (5) The board may make refunds for all taxes paid on beer and
4 strong beer exported from the state for use outside the state.

5 (6) The board may require filing with the board of a bond to be
6 approved by it, in such amount as the board may fix, securing the
7 payment of the tax. If any licensee fails to pay the tax when due, the
8 board may forthwith suspend or cancel his or her license until all
9 taxes are paid.

10 **Sec. 8.** RCW 66.28.070 and 1994 c 201 s 5 and 1994 c 63 s 2 are
11 each reenacted and amended to read as follows:

12 (1) Except as provided in subsection (2) of this section, it shall
13 be unlawful for any retail beer or wine licensee to purchase beer or
14 wine, except from a duly licensed ((~~wholesaler~~)) distributor, domestic
15 winery, domestic brewer, certificate of approval holder with a direct
16 shipment endorsement, or the board(~~(, and it shall be unlawful for any~~
17 ~~brewer, winery, or beer or wine wholesaler to purchase beer or wine,~~
18 ~~except from a duly licensed beer or wine wholesaler or importer))~~).

19 (2) A beer or wine retailer licensee may purchase beer or wine from
20 a government agency which has lawfully seized beer or wine from a
21 licensed beer or wine retailer, or from a board-authorized retailer, or
22 from a licensed retailer which has discontinued business if the
23 ((~~wholesaler~~)) distributor has refused to accept beer or wine from that
24 retailer for return and refund. Beer and wine purchased under this
25 subsection shall meet the quality standards set by its manufacturer.

26 (3) Special occasion licensees holding either a ((~~class G or J~~))
27 special occasion license may only purchase beer or wine from a beer or
28 wine retailer duly licensed to sell beer or wine for off-premises
29 consumption, the board, or from a duly licensed beer or wine
30 ((~~wholesaler~~)) distributor.

31 **Sec. 9.** RCW 66.28.180 and 2004 c 269 s 1 and 2004 c 160 s 18 are
32 each reenacted and amended to read as follows:

33 It is unlawful for a person, firm, or corporation holding a
34 certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer
35 distributor's license, a domestic brewery license, a microbrewery
36 license, a beer importer's license, a beer distributor's license, a

1 domestic winery license, a wine importer's license, or a wine
2 distributor's license within the state of Washington to modify any
3 prices without prior notification to and approval of the board.

4 (1) Intent. This section is enacted, pursuant to the authority of
5 this state under the twenty-first amendment to the United States
6 Constitution, to promote the public's interest in fostering the orderly
7 and responsible distribution of malt beverages and wine towards
8 effective control of consumption; to promote the fair and efficient
9 three-tier system of distribution of such beverages; and to confirm
10 existing board rules as the clear expression of state policy to
11 regulate the manner of selling and pricing of wine and malt beverages
12 by licensed suppliers and distributors.

13 (2) Beer and wine distributor price posting.

14 (a) Every beer or wine distributor shall file with the board at its
15 office in Olympia a price posting showing the wholesale prices at which
16 any and all brands of beer and wine sold by such beer and/or wine
17 distributor shall be sold to retailers within the state.

18 (b) Each price posting shall be made on a form prepared and
19 furnished by the board, or a reasonable facsimile thereof, and shall
20 set forth:

21 (i) All brands, types, packages, and containers of beer offered for
22 sale by such beer and/or wine distributor;

23 (ii) The wholesale prices thereof to retail licensees, including
24 allowances, if any, for returned empty containers.

25 (c) No beer and/or wine distributor may sell or offer to sell any
26 package or container of beer or wine to any retail licensee at a price
27 differing from the price for such package or container as shown in the
28 price posting filed by the beer and/or wine distributor and then in
29 effect, according to rules adopted by the board.

30 (d) Quantity discounts are prohibited. No price may be posted that
31 is below acquisition cost plus ten percent of acquisition cost.
32 However, the board is empowered to review periodically, as it may deem
33 appropriate, the amount of the percentage of acquisition cost as a
34 minimum mark-up over cost and to modify such percentage by rule of the
35 board, except such percentage shall be not less than ten percent.

36 (e) Distributor prices on a "close-out" item shall be accepted by
37 the board if the item to be discontinued has been listed on the state
38 market for a period of at least six months, and upon the further

1 condition that the distributor who posts such a close-out price shall
2 not restock the item for a period of one year following the first
3 effective date of such close-out price.

4 (f) The board may reject any price posting that it deems to be in
5 violation of this section or any rule, or portion thereof, or that
6 would tend to disrupt the orderly sale and distribution of beer and
7 wine. Whenever the board rejects any posting, the licensee submitting
8 the posting may be heard by the board and shall have the burden of
9 showing that the posting is not in violation of this section or a rule
10 or does not tend to disrupt the orderly sale and distribution of beer
11 and wine. If the posting is accepted, it shall become effective at the
12 time fixed by the board. If the posting is rejected, the last
13 effective posting shall remain in effect until such time as an amended
14 posting is filed and approved, in accordance with the provisions of
15 this section.

16 (g) Prior to the effective date of the posted prices, all price
17 postings filed as required by this section constitute investigative
18 information and shall not be subject to disclosure, pursuant to RCW
19 42.17.310(1)(d).

20 (h) Any beer and/or wine distributor or employee authorized by the
21 distributor-employer may sell beer and/or wine at the distributor's
22 posted prices to any annual or special occasion retail licensee upon
23 presentation to the distributor or employee at the time of purchase of
24 a special permit issued by the board to such licensee.

25 (i) Every annual or special occasion retail licensee, upon
26 purchasing any beer and/or wine from a distributor, shall immediately
27 cause such beer or wine to be delivered to the licensed premises, and
28 the licensee shall not thereafter permit such beer to be disposed of in
29 any manner except as authorized by the license.

30 (ii) Beer and wine sold as provided in this section shall be
31 delivered by the distributor or an authorized employee either to the
32 retailer's licensed premises or directly to the retailer at the
33 distributor's licensed premises. When a domestic winery, brewery,
34 microbrewery, or certificate of approval holder with a direct shipping
35 endorsement is acting as a distributor of its own production, a
36 licensed retailer may contract with a common carrier to obtain the
37 product directly from the domestic winery, brewery, microbrewery, or

1 certificate of approval holder with a direct shipping endorsement. A
2 distributor's prices to retail licensees shall be the same at both such
3 places of delivery.

4 (3) Beer and wine suppliers' price filings, contracts, and
5 memoranda.

6 (a) Every domestic brewery, microbrewery, and domestic winery
7 offering beer and/or wine for sale within the state shall file with the
8 board at its office in Olympia a copy of every written contract and a
9 memorandum of every oral agreement which such brewery or winery may
10 have with any beer or wine distributor, which contracts or memoranda
11 shall contain a schedule of prices charged to distributors for all
12 items and all terms of sale, including all regular and special
13 discounts; all advertising, sales and trade allowances, and incentive
14 programs; and all commissions, bonuses or gifts, and any and all other
15 discounts or allowances. Whenever changed or modified, such revised
16 contracts or memoranda shall forthwith be filed with the board as
17 provided for by rule. The provisions of this section also apply to
18 certificate of approval holders, beer and/or wine importers, and beer
19 and/or wine distributors who sell to other beer and/or wine
20 distributors.

21 Each price schedule shall be made on a form prepared and furnished
22 by the board, or a reasonable facsimile thereof, and shall set forth
23 all brands, types, packages, and containers of beer or wine offered for
24 sale by such licensed brewery or winery; all additional information
25 required may be filed as a supplement to the price schedule forms.

26 (b) Prices filed by a domestic brewery, microbrewery, domestic
27 winery, or certificate of approval holder shall be uniform prices to
28 all distributors or retailers on a statewide basis less bona fide
29 allowances for freight differentials. Quantity discounts are
30 prohibited. No price shall be filed that is below
31 acquisition/production cost plus ten percent of that cost, except that
32 acquisition cost plus ten percent of acquisition cost does not apply to
33 sales of beer or wine between a beer or wine importer who sells beer or
34 wine to another beer or wine importer or to a beer or wine distributor,
35 or to a beer or wine distributor who sells beer or wine to another beer
36 or wine distributor. However, the board is empowered to review
37 periodically, as it may deem appropriate, the amount of the percentage

1 of acquisition/production cost as a minimum mark-up over cost and to
2 modify such percentage by rule of the board, except such percentage
3 shall be not less than ten percent.

4 (c) No domestic brewery, microbrewery, domestic winery, certificate
5 of approval holder, beer or wine importer, or beer or wine distributor
6 may sell or offer to sell any beer or wine to any persons whatsoever in
7 this state until copies of such written contracts or memoranda of such
8 oral agreements are on file with the board.

9 (d) No domestic brewery, microbrewery, domestic winery, or
10 certificate of approval holder may sell or offer to sell any package or
11 container of beer or wine to any distributor at a price differing from
12 the price for such package or container as shown in the schedule of
13 prices filed by the domestic brewery, microbrewery, domestic winery, or
14 certificate of approval holder and then in effect, according to rules
15 adopted by the board.

16 (e) The board may reject any supplier's price filing, contract, or
17 memorandum of oral agreement, or portion thereof that it deems to be in
18 violation of this section or any rule or that would tend to disrupt the
19 orderly sale and distribution of beer or wine. Whenever the board
20 rejects any such price filing, contract, or memorandum, the licensee
21 submitting the price filing, contract, or memorandum may be heard by
22 the board and shall have the burden of showing that the price filing,
23 contract, or memorandum is not in violation of this section or a rule
24 or does not tend to disrupt the orderly sale and distribution of beer
25 or wine. If the price filing, contract, or memorandum is accepted, it
26 shall become effective at a time fixed by the board. If the price
27 filing, contract, or memorandum, or portion thereof, is rejected, the
28 last effective price filing, contract, or memorandum shall remain in
29 effect until such time as an amended price filing, contract, or
30 memorandum is filed and approved, in accordance with the provisions of
31 this section.

32 (f) Prior to the effective date of the posted prices, all prices,
33 contracts, and memoranda filed as required by this section constitute
34 investigative information and shall not be subject to disclosure,
35 pursuant to RCW 42.17.310(1)(d).

36 **Sec. 10.** RCW 66.28.180 and 2005 c 274 s 327 are each amended to
37 read as follows:

1 It is unlawful for a person, firm, or corporation holding a
2 certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer
3 distributor's license, a domestic brewery license, a microbrewery
4 license, a beer importer's license, a beer distributor's license, a
5 domestic winery license, a wine importer's license, or a wine
6 distributor's license within the state of Washington to modify any
7 prices without prior notification to and approval of the board.

8 (1) Intent. This section is enacted, pursuant to the authority of
9 this state under the twenty-first amendment to the United States
10 Constitution, to promote the public's interest in fostering the orderly
11 and responsible distribution of malt beverages and wine towards
12 effective control of consumption; to promote the fair and efficient
13 three-tier system of distribution of such beverages; and to confirm
14 existing board rules as the clear expression of state policy to
15 regulate the manner of selling and pricing of wine and malt beverages
16 by licensed suppliers and distributors.

17 (2) Beer and wine distributor price posting.

18 (a) Every beer or wine distributor shall file with the board at its
19 office in Olympia a price posting showing the wholesale prices at which
20 any and all brands of beer and wine sold by such beer and/or wine
21 distributor shall be sold to retailers within the state.

22 (b) Each price posting shall be made on a form prepared and
23 furnished by the board, or a reasonable facsimile thereof, and shall
24 set forth:

25 (i) All brands, types, packages, and containers of beer offered for
26 sale by such beer and/or wine distributor;

27 (ii) The wholesale prices thereof to retail licensees, including
28 allowances, if any, for returned empty containers.

29 (c) No beer and/or wine distributor may sell or offer to sell any
30 package or container of beer or wine to any retail licensee at a price
31 differing from the price for such package or container as shown in the
32 price posting filed by the beer and/or wine distributor and then in
33 effect, according to rules adopted by the board.

34 (d) Quantity discounts are prohibited. No price may be posted that
35 is below acquisition cost plus ten percent of acquisition cost.
36 However, the board is empowered to review periodically, as it may deem
37 appropriate, the amount of the percentage of acquisition cost as a

1 minimum mark-up over cost and to modify such percentage by rule of the
2 board, except such percentage shall be not less than ten percent.

3 (e) Distributor prices on a "close-out" item shall be accepted by
4 the board if the item to be discontinued has been listed on the state
5 market for a period of at least six months, and upon the further
6 condition that the distributor who posts such a close-out price shall
7 not restock the item for a period of one year following the first
8 effective date of such close-out price.

9 (f) The board may reject any price posting that it deems to be in
10 violation of this section or any rule, or portion thereof, or that
11 would tend to disrupt the orderly sale and distribution of beer and
12 wine. Whenever the board rejects any posting, the licensee submitting
13 the posting may be heard by the board and shall have the burden of
14 showing that the posting is not in violation of this section or a rule
15 or does not tend to disrupt the orderly sale and distribution of beer
16 and wine. If the posting is accepted, it shall become effective at the
17 time fixed by the board. If the posting is rejected, the last
18 effective posting shall remain in effect until such time as an amended
19 posting is filed and approved, in accordance with the provisions of
20 this section.

21 (g) Prior to the effective date of the posted prices, all price
22 postings filed as required by this section constitute investigative
23 information and shall not be subject to disclosure, pursuant to RCW
24 42.56.240(1).

25 (h) Any beer and/or wine distributor or employee authorized by the
26 distributor-employer may sell beer and/or wine at the distributor's
27 posted prices to any annual or special occasion retail licensee upon
28 presentation to the distributor or employee at the time of purchase of
29 a special permit issued by the board to such licensee.

30 (i) Every annual or special occasion retail licensee, upon
31 purchasing any beer and/or wine from a distributor, shall immediately
32 cause such beer or wine to be delivered to the licensed premises, and
33 the licensee shall not thereafter permit such beer to be disposed of in
34 any manner except as authorized by the license.

35 (ii) Beer and wine sold as provided in this section shall be
36 delivered by the distributor or an authorized employee either to the
37 retailer's licensed premises or directly to the retailer at the
38 distributor's licensed premises. When a domestic winery, brewery,

1 microbrewery, or certificate of approval holder with a direct shipping
2 endorsement is acting as a distributor of its own production, a
3 licensed retailer may contract with a common carrier to obtain the
4 product directly from the domestic winery, brewery, microbrewery, or
5 certificate of approval holder with a direct shipping endorsement. A
6 distributor's prices to retail licensees shall be the same at both such
7 places of delivery.

8 (3) Beer and wine suppliers' price filings, contracts, and
9 memoranda.

10 (a) Every domestic brewery, microbrewery, and domestic winery
11 offering beer and/or wine for sale within the state shall file with the
12 board at its office in Olympia a copy of every written contract and a
13 memorandum of every oral agreement which such brewery or winery may
14 have with any beer or wine distributor, which contracts or memoranda
15 shall contain a schedule of prices charged to distributors for all
16 items and all terms of sale, including all regular and special
17 discounts; all advertising, sales and trade allowances, and incentive
18 programs; and all commissions, bonuses or gifts, and any and all other
19 discounts or allowances. Whenever changed or modified, such revised
20 contracts or memoranda shall forthwith be filed with the board as
21 provided for by rule. The provisions of this section also apply to
22 certificate of approval holders, beer and/or wine importers, and beer
23 and/or wine distributors who sell to other beer and/or wine
24 distributors.

25 Each price schedule shall be made on a form prepared and furnished
26 by the board, or a reasonable facsimile thereof, and shall set forth
27 all brands, types, packages, and containers of beer or wine offered for
28 sale by such licensed brewery or winery; all additional information
29 required may be filed as a supplement to the price schedule forms.

30 (b) Prices filed by a domestic brewery, microbrewery, domestic
31 winery, or certificate of approval holder shall be uniform prices to
32 all distributors or retailers on a statewide basis less bona fide
33 allowances for freight differentials. Quantity discounts are
34 prohibited. No price shall be filed that is below
35 acquisition/production cost plus ten percent of that cost, except that
36 acquisition cost plus ten percent of acquisition cost does not apply to
37 sales of beer or wine between a beer or wine importer who sells beer or
38 wine to another beer or wine importer or to a beer or wine distributor,

1 or to a beer or wine distributor who sells beer or wine to another beer
2 or wine distributor. However, the board is empowered to review
3 periodically, as it may deem appropriate, the amount of the percentage
4 of acquisition/production cost as a minimum mark-up over cost and to
5 modify such percentage by rule of the board, except such percentage
6 shall be not less than ten percent.

7 (c) No domestic brewery, microbrewery, domestic winery, certificate
8 of approval holder, beer or wine importer, or beer or wine distributor
9 may sell or offer to sell any beer or wine to any persons whatsoever in
10 this state until copies of such written contracts or memoranda of such
11 oral agreements are on file with the board.

12 (d) No domestic brewery, microbrewery, domestic winery, or
13 certificate of approval holder may sell or offer to sell any package or
14 container of beer or wine to any distributor at a price differing from
15 the price for such package or container as shown in the schedule of
16 prices filed by the domestic brewery, microbrewery, domestic winery, or
17 certificate of approval holder and then in effect, according to rules
18 adopted by the board.

19 (e) The board may reject any supplier's price filing, contract, or
20 memorandum of oral agreement, or portion thereof that it deems to be in
21 violation of this section or any rule or that would tend to disrupt the
22 orderly sale and distribution of beer or wine. Whenever the board
23 rejects any such price filing, contract, or memorandum, the licensee
24 submitting the price filing, contract, or memorandum may be heard by
25 the board and shall have the burden of showing that the price filing,
26 contract, or memorandum is not in violation of this section or a rule
27 or does not tend to disrupt the orderly sale and distribution of beer
28 or wine. If the price filing, contract, or memorandum is accepted, it
29 shall become effective at a time fixed by the board. If the price
30 filing, contract, or memorandum, or portion thereof, is rejected, the
31 last effective price filing, contract, or memorandum shall remain in
32 effect until such time as an amended price filing, contract, or
33 memorandum is filed and approved, in accordance with the provisions of
34 this section.

35 (f) Prior to the effective date of the posted prices, all prices,
36 contracts, and memoranda filed as required by this section constitute
37 investigative information and shall not be subject to disclosure,
38 pursuant to RCW 42.56.240(1).

1 **Sec. 11.** RCW 42.17.310 and 2005 c 424 s 16, 2005 c 349 s 1, 2005
2 c 312 s 6, 2005 c 284 s 1, 2005 c 172 s 13, and 2005 c 33 s 4 are each
3 reenacted and amended to read as follows:

4 (1) The following are exempt from public inspection and copying:

5 (a) Personal information in any files maintained for students in
6 public schools, patients or clients of public institutions or public
7 health agencies, or welfare recipients.

8 (b) Personal information in files maintained for employees,
9 appointees, or elected officials of any public agency to the extent
10 that disclosure would violate their right to privacy.

11 (c) Information required of any taxpayer in connection with the
12 assessment or collection of any tax if the disclosure of the
13 information to other persons would (i) be prohibited to such persons by
14 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
15 taxpayer's right to privacy or result in unfair competitive
16 disadvantage to the taxpayer.

17 (d) Specific intelligence information and specific investigative
18 records compiled by investigative, law enforcement, and penology
19 agencies, and state agencies vested with the responsibility to
20 discipline members of any profession, the nondisclosure of which is
21 essential to effective law enforcement or for the protection of any
22 person's right to privacy.

23 (e) Information revealing the identity of persons who are witnesses
24 to or victims of crime or who file complaints with investigative, law
25 enforcement, or penology agencies, other than the public disclosure
26 commission, if disclosure would endanger any person's life, physical
27 safety, or property. If at the time a complaint is filed the
28 complainant, victim or witness indicates a desire for disclosure or
29 nondisclosure, such desire shall govern. However, all complaints filed
30 with the public disclosure commission about any elected official or
31 candidate for public office must be made in writing and signed by the
32 complainant under oath.

33 (f) Test questions, scoring keys, and other examination data used
34 to administer a license, employment, or academic examination.

35 (g) Except as provided by chapter 8.26 RCW, the contents of real
36 estate appraisals, made for or by any agency relative to the
37 acquisition or sale of property, until the project or prospective sale
38 is abandoned or until such time as all of the property has been

1 acquired or the property to which the sale appraisal relates is sold,
2 but in no event shall disclosure be denied for more than three years
3 after the appraisal.

4 (h) Valuable formulae, designs, drawings, computer source code or
5 object code, and research data obtained by any agency within five years
6 of the request for disclosure when disclosure would produce private
7 gain and public loss.

8 (i) Preliminary drafts, notes, recommendations, and intra-agency
9 memorandums in which opinions are expressed or policies formulated or
10 recommended except that a specific record shall not be exempt when
11 publicly cited by an agency in connection with any agency action.

12 (j) Records which are relevant to a controversy to which an agency
13 is a party but which records would not be available to another party
14 under the rules of pretrial discovery for causes pending in the
15 superior courts.

16 (k) Records, maps, or other information identifying the location of
17 archaeological sites in order to avoid the looting or depredation of
18 such sites.

19 (l) Any library record, the primary purpose of which is to maintain
20 control of library materials, or to gain access to information, which
21 discloses or could be used to disclose the identity of a library user.

22 (m) Financial information supplied by or on behalf of a person,
23 firm, or corporation for the purpose of qualifying to submit a bid or
24 proposal for (i) a ferry system construction or repair contract as
25 required by RCW 47.60.680 through 47.60.750 or (ii) highway
26 construction or improvement as required by RCW 47.28.070.

27 (n) Railroad company contracts filed prior to July 28, 1991, with
28 the utilities and transportation commission under RCW 81.34.070, except
29 that the summaries of the contracts are open to public inspection and
30 copying as otherwise provided by this chapter.

31 (o) Financial and commercial information and records supplied by
32 private persons pertaining to export services provided pursuant to
33 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
34 export projects pursuant to RCW 43.23.035.

35 (p) Financial disclosures filed by private vocational schools under
36 chapters 28B.85 and 28C.10 RCW.

37 (q) Records filed with the utilities and transportation commission

1 or attorney general under RCW 80.04.095 that a court has determined are
2 confidential under RCW 80.04.095.

3 (r) Financial and commercial information and records supplied by
4 businesses or individuals during application for loans or program
5 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
6 or during application for economic development loans or program
7 services provided by any local agency.

8 (s) Membership lists or lists of members or owners of interests of
9 units in timeshare projects, subdivisions, camping resorts,
10 condominiums, land developments, or common-interest communities
11 affiliated with such projects, regulated by the department of
12 licensing, in the files or possession of the department.

13 (t) All applications for public employment, including the names of
14 applicants, resumes, and other related materials submitted with respect
15 to an applicant.

16 (u) The residential addresses, residential telephone numbers,
17 personal wireless telephone numbers, personal electronic mail
18 addresses, Social Security numbers, and emergency contact information
19 of employees or volunteers of a public agency, and the names, dates of
20 birth, residential addresses, residential telephone numbers, personal
21 wireless telephone numbers, personal electronic mail addresses, Social
22 Security numbers, and emergency contact information of dependents of
23 employees or volunteers of a public agency, which are held by any
24 public agency in personnel records, public employment related records,
25 or volunteer rosters, or are included in any mailing list of employees
26 or volunteers of any public agency. For purposes of this subsection,
27 "employees" includes independent provider home care workers as defined
28 in RCW 74.39A.240.

29 (v) The residential addresses and residential telephone numbers of
30 the customers of a public utility contained in the records or lists
31 held by the public utility of which they are customers, except that
32 this information may be released to the division of child support or
33 the agency or firm providing child support enforcement for another
34 state under Title IV-D of the federal social security act, for the
35 establishment, enforcement, or modification of a support order.

36 (w)(i) The federal social security number of individuals governed
37 under chapter 18.130 RCW maintained in the files of the department of
38 health, except this exemption does not apply to requests made directly

1 to the department from federal, state, and local agencies of
2 government, and national and state licensing, credentialing,
3 investigatory, disciplinary, and examination organizations; (ii) the
4 current residential address and current residential telephone number of
5 a health care provider governed under chapter 18.130 RCW maintained in
6 the files of the department, if the provider requests that this
7 information be withheld from public inspection and copying, and
8 provides to the department an accurate alternate or business address
9 and business telephone number. On or after January 1, 1995, the
10 current residential address and residential telephone number of a
11 health care provider governed under RCW 18.130.040 maintained in the
12 files of the department shall automatically be withheld from public
13 inspection and copying unless the provider specifically requests the
14 information be released, and except as provided for under RCW
15 42.17.260(9).

16 (x) Information obtained by the board of pharmacy as provided in
17 RCW 69.45.090.

18 (y) Information obtained by the board of pharmacy or the department
19 of health and its representatives as provided in RCW 69.41.044,
20 69.41.280, and 18.64.420.

21 (z) Financial information, business plans, examination reports, and
22 any information produced or obtained in evaluating or examining a
23 business and industrial development corporation organized or seeking
24 certification under chapter 31.24 RCW.

25 (aa) Financial and commercial information supplied to the state
26 investment board by any person when the information relates to the
27 investment of public trust or retirement funds and when disclosure
28 would result in loss to such funds or in private loss to the providers
29 of this information.

30 (bb) Financial and valuable trade information under RCW 51.36.120.

31 (cc) Client records maintained by an agency that is a domestic
32 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
33 crisis center as defined in RCW 70.125.030.

34 (dd) Information that identifies a person who, while an agency
35 employee: (i) Seeks advice, under an informal process established by
36 the employing agency, in order to ascertain his or her rights in
37 connection with a possible unfair practice under chapter 49.60 RCW

1 against the person; and (ii) requests his or her identity or any
2 identifying information not be disclosed.

3 (ee) Investigative records compiled by an employing agency
4 conducting a current investigation of a possible unfair practice under
5 chapter 49.60 RCW or of a possible violation of other federal, state,
6 or local laws prohibiting discrimination in employment.

7 (ff) Business related information protected from public inspection
8 and copying under RCW 15.86.110.

9 (gg) Financial, commercial, operations, and technical and research
10 information and data submitted to or obtained by the clean Washington
11 center in applications for, or delivery of, program services under
12 chapter 70.95H RCW.

13 (hh) Information and documents created specifically for, and
14 collected and maintained by, a quality improvement committee pursuant
15 to RCW 43.70.510 or 70.41.200, by a peer review committee under RCW
16 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640
17 or 18.20.390, regardless of which agency is in possession of the
18 information and documents.

19 (ii) Personal information in files maintained in a data base
20 created under RCW 43.07.360.

21 (jj) Financial and commercial information requested by the public
22 stadium authority from any person or organization that leases or uses
23 the stadium and exhibition center as defined in RCW 36.102.010.

24 (kk) Names of individuals residing in emergency or transitional
25 housing that are furnished to the department of revenue or a county
26 assessor in order to substantiate a claim for property tax exemption
27 under RCW 84.36.043.

28 (ll) The names, residential addresses, residential telephone
29 numbers, and other individually identifiable records held by an agency
30 in relation to a vanpool, carpool, or other ride-sharing program or
31 service. However, these records may be disclosed to other persons who
32 apply for ride-matching services and who need that information in order
33 to identify potential riders or drivers with whom to share rides.

34 (mm) The personally identifying information of current or former
35 participants or applicants in a paratransit or other transit service
36 operated for the benefit of persons with disabilities or elderly
37 persons.

1 (nn) The personally identifying information of persons who acquire
2 and use transit passes and other fare payment media including, but not
3 limited to, stored value smart cards and magnetic strip cards, except
4 that an agency may disclose this information to a person, employer,
5 educational institution, or other entity that is responsible, in whole
6 or in part, for payment of the cost of acquiring or using a transit
7 pass or other fare payment media, or to the news media when reporting
8 on public transportation or public safety. This information may also
9 be disclosed at the agency's discretion to governmental agencies or
10 groups concerned with public transportation or public safety.

11 (oo) Proprietary financial and commercial information that the
12 submitting entity, with review by the department of health,
13 specifically identifies at the time it is submitted and that is
14 provided to or obtained by the department of health in connection with
15 an application for, or the supervision of, an antitrust exemption
16 sought by the submitting entity under RCW 43.72.310. If a request for
17 such information is received, the submitting entity must be notified of
18 the request. Within ten business days of receipt of the notice, the
19 submitting entity shall provide a written statement of the continuing
20 need for confidentiality, which shall be provided to the requester.
21 Upon receipt of such notice, the department of health shall continue to
22 treat information designated under this section as exempt from
23 disclosure. If the requester initiates an action to compel disclosure
24 under this chapter, the submitting entity must be joined as a party to
25 demonstrate the continuing need for confidentiality.

26 (pp) Records maintained by the board of industrial insurance
27 appeals that are related to appeals of crime victims' compensation
28 claims filed with the board under RCW 7.68.110.

29 (qq) Financial and commercial information supplied by or on behalf
30 of a person, firm, corporation, or entity under chapter 28B.95 RCW
31 relating to the purchase or sale of tuition units and contracts for the
32 purchase of multiple tuition units.

33 (rr) Any records of investigative reports prepared by any state,
34 county, municipal, or other law enforcement agency pertaining to sex
35 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
36 defined in RCW 71.09.020, which have been transferred to the Washington
37 association of sheriffs and police chiefs for permanent electronic
38 retention and retrieval pursuant to RCW 40.14.070(2)(b).

1 (ss) Credit card numbers, debit card numbers, electronic check
2 numbers, card expiration dates, or bank or other financial account
3 numbers, except when disclosure is expressly required by or governed by
4 other law.

5 (tt) Financial information, including but not limited to account
6 numbers and values, and other identification numbers supplied by or on
7 behalf of a person, firm, corporation, limited liability company,
8 partnership, or other entity related to an application for a horse
9 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
10 license, gambling license, or lottery retail license.

11 (uu) Records maintained by the employment security department and
12 subject to chapter 50.13 RCW if provided to another individual or
13 organization for operational, research, or evaluation purposes.

14 (vv) Individually identifiable information received by the work
15 force training and education coordinating board for research or
16 evaluation purposes.

17 (ww) Those portions of records assembled, prepared, or maintained
18 to prevent, mitigate, or respond to criminal terrorist acts, which are
19 acts that significantly disrupt the conduct of government or of the
20 general civilian population of the state or the United States and that
21 manifest an extreme indifference to human life, the public disclosure
22 of which would have a substantial likelihood of threatening public
23 safety, consisting of:

24 (i) Specific and unique vulnerability assessments or specific and
25 unique response or deployment plans, including compiled underlying data
26 collected in preparation of or essential to the assessments, or to the
27 response or deployment plans; and

28 (ii) Records not subject to public disclosure under federal law
29 that are shared by federal or international agencies, and information
30 prepared from national security briefings provided to state or local
31 government officials related to domestic preparedness for acts of
32 terrorism.

33 (xx) Commercial fishing catch data from logbooks required to be
34 provided to the department of fish and wildlife under RCW 77.12.047,
35 when the data identifies specific catch location, timing, or
36 methodology and the release of which would result in unfair competitive
37 disadvantage to the commercial fisher providing the catch data.

1 However, this information may be released to government agencies
2 concerned with the management of fish and wildlife resources.

3 (yy) Sensitive wildlife data obtained by the department of fish and
4 wildlife. However, sensitive wildlife data may be released to
5 government agencies concerned with the management of fish and wildlife
6 resources. Sensitive wildlife data includes:

7 (i) The nesting sites or specific locations of endangered species
8 designated under RCW 77.12.020, or threatened or sensitive species
9 classified by rule of the department of fish and wildlife;

10 (ii) Radio frequencies used in, or locational data generated by,
11 telemetry studies; or

12 (iii) Other location data that could compromise the viability of a
13 specific fish or wildlife population, and where at least one of the
14 following criteria are met:

15 (A) The species has a known commercial or black market value;

16 (B) There is a history of malicious take of that species; or

17 (C) There is a known demand to visit, take, or disturb, and the
18 species behavior or ecology renders it especially vulnerable or the
19 species has an extremely limited distribution and concentration.

20 (zz) The personally identifying information of persons who acquire
21 recreational licenses under RCW 77.32.010 or commercial licenses under
22 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
23 department, and type of license, endorsement, or tag. However, the
24 department of fish and wildlife may disclose personally identifying
25 information to:

26 (i) Government agencies concerned with the management of fish and
27 wildlife resources;

28 (ii) The department of social and health services, child support
29 division, and to the department of licensing in order to implement RCW
30 77.32.014 and 46.20.291; and

31 (iii) Law enforcement agencies for the purpose of firearm
32 possession enforcement under RCW 9.41.040.

33 (aaa)(i) Discharge papers of a veteran of the armed forces of the
34 United States filed at the office of the county auditor before July 1,
35 2002, that have not been commingled with other recorded documents.
36 These records will be available only to the veteran, the veteran's next
37 of kin, a deceased veteran's properly appointed personal representative

1 or executor, a person holding that veteran's general power of attorney,
2 or to anyone else designated in writing by that veteran to receive the
3 records.

4 (ii) Discharge papers of a veteran of the armed forces of the
5 United States filed at the office of the county auditor before July 1,
6 2002, that have been commingled with other records, if the veteran has
7 recorded a "request for exemption from public disclosure of discharge
8 papers" with the county auditor. If such a request has been recorded,
9 these records may be released only to the veteran filing the papers,
10 the veteran's next of kin, a deceased veteran's properly appointed
11 personal representative or executor, a person holding the veteran's
12 general power of attorney, or anyone else designated in writing by the
13 veteran to receive the records.

14 (iii) Discharge papers of a veteran filed at the office of the
15 county auditor after June 30, 2002, are not public records, but will be
16 available only to the veteran, the veteran's next of kin, a deceased
17 veteran's properly appointed personal representative or executor, a
18 person holding the veteran's general power of attorney, or anyone else
19 designated in writing by the veteran to receive the records.

20 (iv) For the purposes of this subsection (1)(aaa), next of kin of
21 deceased veterans have the same rights to full access to the record.
22 Next of kin are the veteran's widow or widower who has not remarried,
23 son, daughter, father, mother, brother, and sister.

24 (bbb) Those portions of records containing specific and unique
25 vulnerability assessments or specific and unique emergency and escape
26 response plans at a city, county, or state adult or juvenile
27 correctional facility, the public disclosure of which would have a
28 substantial likelihood of threatening the security of a city, county,
29 or state adult or juvenile correctional facility or any individual's
30 safety.

31 (ccc) Information compiled by school districts or schools in the
32 development of their comprehensive safe school plans pursuant to RCW
33 28A.320.125, to the extent that they identify specific vulnerabilities
34 of school districts and each individual school.

35 (ddd) Information regarding the infrastructure and security of
36 computer and telecommunications networks, consisting of security
37 passwords, security access codes and programs, access codes for secure

1 software applications, security and service recovery plans, security
2 risk assessments, and security test results to the extent that they
3 identify specific system vulnerabilities.

4 (eee) Information obtained and exempted or withheld from public
5 inspection by the health care authority under RCW 41.05.026, whether
6 retained by the authority, transferred to another state purchased
7 health care program by the authority, or transferred by the authority
8 to a technical review committee created to facilitate the development,
9 acquisition, or implementation of state purchased health care under
10 chapter 41.05 RCW.

11 (fff) Proprietary data, trade secrets, or other information that
12 relates to: (i) A vendor's unique methods of conducting business; (ii)
13 data unique to the product or services of the vendor; or (iii)
14 determining prices or rates to be charged for services, submitted by
15 any vendor to the department of social and health services for purposes
16 of the development, acquisition, or implementation of state purchased
17 health care as defined in RCW 41.05.011.

18 (ggg) The personally identifying information of persons who acquire
19 and use transponders or other technology to facilitate payment of
20 tolls. This information may be disclosed in aggregate form as long as
21 the data does not contain any personally identifying information. For
22 these purposes aggregate data may include the census tract of the
23 account holder as long as any individual personally identifying
24 information is not released. Personally identifying information may be
25 released to law enforcement agencies only for toll enforcement
26 purposes. Personally identifying information may be released to law
27 enforcement agencies for other purposes only if the request is
28 accompanied by a court order.

29 (hhh) Financial, commercial, operations, and technical and research
30 information and data submitted to or obtained by the life sciences
31 discovery fund authority in applications for, or delivery of, grants
32 under chapter 43.350 RCW, to the extent that such information, if
33 revealed, would reasonably be expected to result in private loss to the
34 providers of this information.

35 (iii) Records of mediation communications that are privileged under
36 chapter 7.07 RCW.

37 (jjj) Financial or proprietary information supplied to the liquor
38 control board including the amount of beer or wine sold by a domestic

1 winery, brewery, microbrewery, or certificate of approval holder under
2 RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or
3 wine purchased by a retail licensee in connection with a retail
4 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of
5 shipments of beer or wine.

6 (2) Except for information described in subsection (1)(c)(i) of
7 this section and confidential income data exempted from public
8 inspection pursuant to RCW 84.40.020, the exemptions of this section
9 are inapplicable to the extent that information, the disclosure of
10 which would violate personal privacy or vital governmental interests,
11 can be deleted from the specific records sought. No exemption may be
12 construed to permit the nondisclosure of statistical information not
13 descriptive of any readily identifiable person or persons.

14 (3) Inspection or copying of any specific records exempt under the
15 provisions of this section may be permitted if the superior court in
16 the county in which the record is maintained finds, after a hearing
17 with notice thereof to every person in interest and the agency, that
18 the exemption of such records is clearly unnecessary to protect any
19 individual's right of privacy or any vital governmental function.

20 (4) Agency responses refusing, in whole or in part, inspection of
21 any public record shall include a statement of the specific exemption
22 authorizing the withholding of the record (or part) and a brief
23 explanation of how the exemption applies to the record withheld.

24 **Sec. 12.** RCW 42.56.270 and 2005 c 274 s 407 are each amended to
25 read as follows:

26 The following financial, commercial, and proprietary information is
27 exempt from disclosure under this chapter:

28 (1) Valuable formulae, designs, drawings, computer source code or
29 object code, and research data obtained by any agency within five years
30 of the request for disclosure when disclosure would produce private
31 gain and public loss;

32 (2) Financial information supplied by or on behalf of a person,
33 firm, or corporation for the purpose of qualifying to submit a bid or
34 proposal for (a) a ferry system construction or repair contract as
35 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
36 or improvement as required by RCW 47.28.070;

1 (3) Financial and commercial information and records supplied by
2 private persons pertaining to export services provided under chapters
3 43.163 and 53.31 RCW, and by persons pertaining to export projects
4 under RCW 43.23.035;

5 (4) Financial and commercial information and records supplied by
6 businesses or individuals during application for loans or program
7 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
8 or during application for economic development loans or program
9 services provided by any local agency;

10 (5) Financial information, business plans, examination reports, and
11 any information produced or obtained in evaluating or examining a
12 business and industrial development corporation organized or seeking
13 certification under chapter 31.24 RCW;

14 (6) Financial and commercial information supplied to the state
15 investment board by any person when the information relates to the
16 investment of public trust or retirement funds and when disclosure
17 would result in loss to such funds or in private loss to the providers
18 of this information;

19 (7) Financial and valuable trade information under RCW 51.36.120;

20 (8) Financial, commercial, operations, and technical and research
21 information and data submitted to or obtained by the clean Washington
22 center in applications for, or delivery of, program services under
23 chapter 70.95H RCW;

24 (9) Financial and commercial information requested by the public
25 stadium authority from any person or organization that leases or uses
26 the stadium and exhibition center as defined in RCW 36.102.010;

27 (10)(a) Financial information, including but not limited to account
28 numbers and values, and other identification numbers supplied by or on
29 behalf of a person, firm, corporation, limited liability company,
30 partnership, or other entity related to an application for a liquor
31 license, gambling license, or lottery retail license;

32 (b) Financial or proprietary information supplied to the liquor
33 control board including the amount of beer or wine sold by a domestic
34 winery, brewery, microbrewery, or certificate of approval holder under
35 RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or
36 wine purchased by a retail licensee in connection with a retail
37 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of
38 shipments of beer or wine.

1 (11) Proprietary data, trade secrets, or other information that
2 relates to: (a) A vendor's unique methods of conducting business; (b)
3 data unique to the product or services of the vendor; or (c)
4 determining prices or rates to be charged for services, submitted by
5 any vendor to the department of social and health services for purposes
6 of the development, acquisition, or implementation of state purchased
7 health care as defined in RCW 41.05.011; and

8 (12)(a) When supplied to and in the records of the department of
9 community, trade, and economic development:

10 (i) Financial and proprietary information collected from any person
11 and provided to the department of community, trade, and economic
12 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

13 (ii) Financial or proprietary information collected from any person
14 and provided to the department of community, trade, and economic
15 development or the office of the governor in connection with the
16 siting, recruitment, expansion, retention, or relocation of that
17 person's business and until a siting decision is made, identifying
18 information of any person supplying information under this subsection
19 and the locations being considered for siting, relocation, or expansion
20 of a business;

21 (b) When developed by the department of community, trade, and
22 economic development based on information as described in (a)(i) of
23 this subsection, any work product is not exempt from disclosure;

24 (c) For the purposes of this subsection, "siting decision" means
25 the decision to acquire or not to acquire a site;

26 (d) If there is no written contact for a period of sixty days to
27 the department of community, trade, and economic development from a
28 person connected with siting, recruitment, expansion, retention, or
29 relocation of that person's business, information described in (a)(ii)
30 of this subsection will be available to the public under this chapter.

31 NEW SECTION. **Sec. 13.** The liquor control board shall convene a
32 task force to conduct a comprehensive review of the current regulatory
33 system controlling the sale and distribution of beer and wine in
34 Washington state. The board shall include stakeholders representing
35 the producers, distributors, consumers, retailers, carriers, and
36 legislators in conducting its review. The task force shall review the
37 genesis of the current regulatory system and whether the system in its

1 current configuration should continue. It shall identify key issues,
2 concerns, and desired changes by stakeholders about the current system
3 and shall identify alternatives or modifications to the current system.
4 The task force shall also research and analyze the impacts and
5 implications of this act, and other suggested modifications to the
6 system on distributors, producers, retailers, and consumers. The task
7 force shall make recommendations about any proposed changes to the
8 system by December 15, 2006.

9 NEW SECTION. **Sec. 14.** Except for sections 9 and 11 of this act
10 which expire July 1, 2006, this act expires June 30, 2008.

11 NEW SECTION. **Sec. 15.** Sections 10 and 12 of this act take effect
12 July 1, 2006.

13 NEW SECTION. **Sec. 16.** Except for sections 10 and 12 of this act,
14 this act is necessary for the immediate preservation of the public
15 peace, health, or safety, or support of the state government and its
16 existing public institutions, and takes effect April 14, 2006.

Passed by the Senate February 9, 2006.

Passed by the House March 2, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

Appendix B

Task Force Charter

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Task Force Charter FINAL



Context:

Introduction and scope of the Three-Tier Review Task Force:

- **Introduction**

The Liquor Control Board (LCB) is responsible for controlling the sale and distribution of alcoholic beverages in Washington State. The current regulatory system has been in place for over 70 years and is designed to meet several key state policy goals:

- ▶ To foster temperance / promote moderation in consumption of alcohol;
- ▶ To assure the controlled, responsible and orderly marketing of alcohol;
- ▶ To promote the efficient collection of taxes; and

Market shifts throughout the industry, significant policy changes driven by recent court decisions and legislative direction, and shifts in public understanding and attitudes about the role of alcohol in our society are prompting a broad-based reexamination of the current regulatory system.

State policymakers, industry leaders, and public health and safety stakeholders are all considering whether changes to the state's current regulatory framework are needed. Since 2001 numerous bills have been introduced in the state legislature proposing to modify various aspects of the distribution of alcohol in our state. To date, proposals have been piecemeal.

On March 29, 2006, Governor Gregoire signed into law Second Substitute Senate Bill 6823. That bill includes a provision directing the LCB to convene a broad-based Task Force whose charge is to conduct a comprehensive review of the current regulatory system controlling the sale and distribution of beer and wine in Washington State, and to recommend what, if any, changes should be made.

- **Initiative Scope**

The Liquor Control Board (LCB) has established this Task Force to contribute to this comprehensive review of the three-tier system, and to provide recommendations for improvements, if needed, to the LCB. The purpose of this review is to identify key issues and concerns about the current system for the sale and distribution of beer and wine, and to determine whether changes, if any, are warranted. The Task Force will:

- Review the impacts of the current regulatory system;
- Consider alternative approaches to achieving the state's goals related to beer and wine distribution; and
- Analyze the costs and benefits of potential alternatives.

The Task Force will produce a final report to the LCB summarizing the results of this effort. The report will include recommendations regarding changes to the existing system, if needed.

The Task Force will focus on four key questions:

1. Are the state's current alcohol sales/distribution policy goals still relevant and appropriate today?
2. What are the current controls and structure for meeting the policy goals related to beer and wine, and are they effective?
3. Is there evidence that the current controls and/or structure significantly impact industry businesses, consumers, society and/or the state?
4. What alternative controls and/or structure are available to meet the state's relevant policy goals and what are their impacts to industry businesses, consumers, society and/or the state?

- **Success**

This review will be successful when these questions are answered, and members of the Task Force provide specific recommendations for improvements, if needed.

Purpose of Three-Tier Review Task Force:

The Three-Tier Review Task Force is convened to provide diverse and informed perspectives, guidance and, if needed, recommendations for improving Washington State's regulation of the beer and wine sales and distribution system.

Roles and Responsibilities:

- **Three-Tier Review Task Force**

Members of the Three-Tier Review Task Force are expected to:

- Prepare for and attend Task Force meetings,
- Champion the initiative and help educate other stakeholders,
- Receive and understand background on the history of the state's beer and wine regulatory system, processes and environment,
- Review information provided related to the state three-tier Review,
- Finalize priorities for improvement opportunities as identified by the Task Force (if any), and
- Discuss and, if needed, provide recommendations and guidance to the Liquor Control Board for improvements to the state's regulation of the sale and distribution of beer and wine.

- **Liquor Control Board**

The Liquor Control Board will actively participate in the Task Force, recruit and communicate with the participating task force members and agencies,

provide staff work and data as necessary, carefully consider any recommendations from the Task Force, and direct the consultant resources.

- **Sterling Associates, LLP**

Sterling Associates will provide consulting, support and assistance to the Task Force including: preparing Task Force meeting materials; assessing the impacts of the state's current beer and wine sales and wine distribution regulatory system and proposed changes to that system; and documenting the Task Force recommendations for improvements, if any, and next steps.

Membership of Three-Tier Review Task Force:

Task Force Chair:

- Nathan Ford

Legislators:

- Cary Condotta, State Representative
- Steve Conway, State Representative
- Jeanne Kohl-Welles, State Senator
- Linda Evans Parlette, State Senator

Industry Representatives:

- Lynn Gust, Fred Meyer (Large Grocers)
- Mike Hale, Hale's Ale (Washington Brewers)
- Tim Hightower, Washington Wine Institute (Washington Wine Producers)
- Katie Jacoy, California Wine Institute (Out-of-state Wine Producers)
- Steve Lynn, Water to Wine Shop (Specialty Retailer)
- John McKay, Costco (Large Retailer)
- Perry Park (Grocer)
- Shelley Sieveking, Anheuser-Busch (Out-of-state Beer Producers)
- Gene Vosberg, Washington Restaurant Association (On-premises Licensees)
- Phil Wayt, Washington Beer and Wine Wholesalers Association (Wholesalers)

Prevention / Treatment / Enforcement:

- Greg Hopkins, Tacoma Police Department
- Carol Owens, Governor's Council on Substance Abuse
- Mary Segawa, Together!
- Tom Carr, Seattle City Attorney's Office

Consumers:

- Fred Hellberg, Private Citizen

Liquor Control Board:

- Rick Garza

Appendix C

Task Force Meeting Schedule and Agenda Summary

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Appendix C

Task Force Meeting Schedule and Agenda Summary

Meeting 1 – May 3, 2006: Setting the stage – orientation, education

- Introductions
- Purpose of the Task Force, and roles and responsibilities of participants
- Review draft Task Force Charter, including operating expectations and definition of success
- Discussion of the review scope, process and schedule
- Review summary of the current regulatory structure

Meeting 2 – May 18, 2006: Understanding the issues and scope decisions

- Adopt recommended modifications to state policy goals

Meeting 3 – June 15, 2006: Select highest priority improvement opportunities for development of improvement alternatives

- Prioritize potential change items that were identified in stakeholder interviews
- Adopt major categories to organize items for discussion

Meeting 4 – August 3, 2006: Discuss Control and Enforcement, and Sales and Distribution categories high priority issues

- Control and Enforcement – LCB Retail of Wine and Beer
- Sales and Distribution – Price Posting / Price Hold

Meeting 5 – September 14, 2006: Discuss Impact Measures for 2SSB 6823, Control and Enforcement, and Mandatory Use of Distributors categories high priority issues

- 2SSB 6823 – Impacts of 2SSB 6823
- Control and Enforcement – General Impact Measures
- Relationship Among the Tiers – Mandatory use of Distributors

Meeting 6 – September 28, 2006: Discuss Relationship Among the Tiers

- Relationship Among the Tiers – Tied House: Ownership and Financial Interests
- Relationship Among the Tiers – Tied House: Money's Worth

Meeting 7 – October 12, 2006: Discuss draft recommendations and review draft Task Force report

- Tied House – Ownership and Financial Interests
- Tied House – Money's Worth
- Common Carriers
- Central Warehousing
- Delivered Pricing
- Impact Measures for 2SSB 6823
- General Impact Measures
- Price Post and Hold

Appendix C

Task Force Meeting Schedule and Agenda Summary

- Minimum Mandatory Mark-up
- Credit
- Uniform Pricing
- Volume Discounts
- LCB Enforcement Resources
- Preamble to recommended state policy goals

Meeting 8 – November 17, 2006: Finalize Task Force report

- Review and discuss final draft report. Approve final changes.
- Presentation on LCB enforcement resources.

Appendix D

Task Force Meeting Discussion Summaries

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Appendix D

Task Force Meeting Discussion Summaries

Note: Detailed meeting minutes, approved by the Task Force, are available in Appendix G. The presentations used at each meeting are included in Appendix H.

Meeting 1 – May 3, 2006: Setting the stage – orientation, education.

- Liquor Control Board Chairman Introduction:
 - There is a U.S. District Court ruling that some current rules are in violation of 21st amendment. The state is appealing the decision, but regardless of that outcome, the current Three-tier system is an issue the LCB believes needs to be reviewed.
 - The Board has no preferred outcome related to the Task Force findings and recommendations. The Task Force may recommend an entire system overhaul, modifications or status quo with minor changes – all and more are options.
 - There is a relatively short amount of time for results – the report is to be complete by November. The Task Force will likely need to scope its work to short, medium and long-term areas to address.
 - Working toward greater good - each member is encouraged to focus beyond just personal interests, and to also consider the greater good and impact to Washington State and citizens.
- Background of Liquor laws presented by Jim Goldberg, Counsel for National Alcohol Beverage Control Association (NABCA) in Virginia.
- Discussion of the state’s highest level policy goals for the control of alcohol – are they still relevant today? Do they need to be modified?
 - Current goals are to: 1) moderate consumption, 2) promote an orderly market, and 3) promote the efficient collection of state taxes.
 - Discussion highlights (no final decisions made):
 - Discussion of goal 1 to moderate consumption. There were some suggestions for re-wording the goal, but general consensus that the goal is relevant today.
 - Discussion of goal 2 related to an orderly market. Discussion focused on varying definitions of what “orderly market” means and whether it is a way to support goals 1 and 3 rather than a goal in itself. Some members stated it should not be a goal, but that 1 and 2 are sufficient. Others stated that an orderly market goal is critical.
 - Discussion of goal 3 related to tax collection – general consensus that the goal is relevant today.
 - ACTION: A revised definition gleaned from comments during interviews and focus groups was prepared and emailed to the Task Force to consider for the continuation of the discussion at the next meeting.

Appendix D

Task Force Meeting Discussion Summaries

Meeting 2 – May 18, 2006: Understanding the issues and scope decisions.

- Presentation of interview results from over 100 participants. (See Appendix L)
- Discussed and **adopted recommended modifications to state policy goals.**
 - Policy Goal 1:
 - To prevent the misuse of alcohol.
“Misuse of alcohol” includes underage sales/drinking, driving while under the influence, serving to inebriated consumers, public inebriation, sales outside of the regulated system, or any other use that could promote public harm or create safety or nuisance issues.

In an attempt to prevent misuse the state should not affect responsible moderate consumption.

“Responsible moderate consumption” is the public sale/consumption of alcohol by legal adults, without misuse.
 - Policy Goal 2:
 - To promote the efficient collection of taxes.

State’s Working Interpretation: readily available and reliable information about all sales in order to effectively collect accurate state taxes.
 - Policy Goal 3:
 - To promote the public interest in fostering the orderly and responsible distribution of malt beverages and wine towards effective control of consumption.

State’s Working Interpretation: avoidance of pressure on any one industry (producers, distributors, or retailers) from another that would cause collusion or result in unfair advantages or disadvantages that may result in over-consumption or increased access by minors.

Meeting 3 – June 15, 2006: Select highest priority improvement opportunities for development of improvement alternatives.

- Received presentations from several group representatives who are not on the Task Force.
 - Washington Public Employees Association (WPEA) – employee effects need to be considered in any proposed changes to the system. (Handout in Appendix H.)
 - Independent Distributors – Approximately 26 distribution firms that are not part of the Washington Beer and Wine Wholesalers Association, and do not always align with the WBWWA perspective. (Handout in Appendix H.)
 - Washington State Sports and Entertainment Facilities Owners Association – Negative impacts of current regulations, especially in prevention of accessing revenue streams through naming rights related to alcoholic beverage companies. (See Tied House issue paper and scenario in Appendix I (4), and handout in Appendix H.)

Appendix D

Task Force Meeting Discussion Summaries

- Prioritize potential change items that were identified in stakeholder interviews. (See Appendix F for prioritized list.)
- The Task Force agreed upon major categories to organize items for discussion (which correspond to the three general strategies used to regulate alcohol):
 - Relationship Among the Tiers (Strategy: Separation of the Three Tiers)
 - Sales and Distribution (Strategy: Level the Playing Field)
 - Control and Enforcement (Strategy: Control the flow of alcohol through licensing and enforcement of regulations)
- Presentation on related federal regulations from Bernie Kipp of the Alcohol and Tobacco Tax and Trade Bureau.
 - Three major considerations:
 - (1) Federal statutes are much more liberal than state,
 - (2) Chargeable parties for federal violations very different than state, and
 - (3) Cause and effect nexus is required for federal regulations.
 - It is important to keep in mind that federal regulations are not involved in intrastate activity.

Meeting 4 – August 3, 2006: Discuss Control and Enforcement, and Sales and Distribution categories high priority issues.

- Received presentation from one more group representative who is not on the Task Force and unable to attend the last meeting:
 - Washington Food Industry (independent grocers) – (See handout in Appendix H.)
- **Control and Enforcement – LCB Retail of Wine and Beer** (Also see corresponding issue paper in Appendix I (2).)
 - Issue background: The LCB does not follow the same regulations as other retailers for the sale of beer and wine. For instance, they do not have to post and hold their prices; they can negotiate prices, and can buy with volume discounts. (However, there are other regulations for LCB sales that do not apply to private retailers.) Some stakeholders believe the same retail rules should apply to the LCB for the sale of beer and wine as other retailers, and some believe the LCB should not be in the beer and wine retail business at all. However, some smaller manufacturers rely on the LCB stores as a primary distribution channel and want them to continue.
 - Discussion highlights:
 - Beer sales in state stores are a very small percentage of the total Washington sales.
 - Smaller breweries like to do business with the state because they can deliver to one place, the state distribution center, and it's an easier business model. The winery representatives concur.

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- From the small specialty shops perspective, there is not a strong policy driver for the state to be in the beer and wine retail business.
 - From a consumer perspective, the legislature has supported the Washington wine industry, and sales through state stores also support that strategy. Furthermore, the LCB stores supply revenue to the state. If there is a serious consideration to discontinue beer and/or wine sales in state stores, there would also need to be revenue replacement proposal.
 - Retailers iterate that the state does not have the same business constraints as private retailers because they do not have to abide by all the same rules. The general rules should be the same for both so there is not a competitive advantage to the state. A motion that new rules would apply to the state and private retailers failed.
 - Distributor representative cautioned to be careful – the state does not have the same rules, but it has different rules that private retailers may not want.
 - Additional data was requested (see Appendix J – Data Requests). No recommendations were agreed upon.
- **Sales and Distribution – Price Posting / Price Hold**
- Issue background: Some stakeholders believe the state should not control prices, but should let the market drive prices. Others believe price controls are important to: 1) avoid overly low prices that contribute to excessive consumption, and 2) promote an orderly market.
 - General state pricing controls were discussed and specific information on Price Posting and Hold was presented.
 - In general, the state has used price controls in an attempt to minimize over-consumption of cheap alcohol, to keep it out of the hands of minors, and to promote equitable standing for large and small manufacturers and retailers to compete.
 - Specifically Price Posting and Hold requires manufacturers and distributors to post their prices to the LCB by a specific time each month, and hold them for a specified period of time. The LCB asserts this is an important tool for monitoring and enforcing other pricing regulations.
 - Discussion highlights:
 - Price probably does matter, but at what level? How sensitive is it? There is cheap alcohol available right now, despite the regulations. There is 17% beer available and it costs much less than the standard 7% alcohol microbrew. Why not charge higher taxes instead of making each tier charge more? Then the state would get the added revenue instead of the industry people; and it would be less complicated for everyone.

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- What do other states do and why? There are no consistent patterns. Some states use price controls others do not. We have not been able to find any states that measure the impacts either way.
- Price Posting and Hold – some members believe it provides stability and helps the state identify participants who are not paying appropriate taxes. Others believe it is an unnecessary process.
- A motion to eliminate pricing posting and hold failed.
- There were requests for more information. (See Appendix J, Data Requests.) No recommendations were agreed upon.

Meeting 5 – September 14, 2006: Discuss Impact Measures for 2SSB 6823, Control and Enforcement, and Mandatory Use of Distributors categories high priority issues.

▪ Results of 50-state survey

- A survey was distributed to all 50 states, asking questions about specific beer and wine regulations. Seventeen states responded with at least partial information. None of the responding states indicated they have impact measures in place. Most regulations evolved over time based upon the strength of industry influence with their legislatures or because of court cases, and regulations are not consistent among states. There is no central repository of information.

▪ Relationship Among the Tiers – Compelled /Mandatory use of Distributors

- Background: When Washington liquor laws originated in the 1930's, the distributor tier was inserted to separate the manufacturers from the retailers, and their use was required to move product from manufacturer to retailer. Since then, many exceptions have been made to allow manufacturers to act as distributors for their own product. Importers are still mandated to use distributors, and other regulations make it difficult for many industry participants not to use distributors.
- Issue: Although most industry participants stated the distributors provide a valuable and efficient service, they believe their use should be driven by market conditions and value added, not by state regulations. Distributors believe they play an important role in maintaining an orderly market and in helping retailers abide by regulations. Stakeholders who would like a more competitive distribution environment cite the prohibition on manufacturers' use of common carriers and the ban on retail central warehousing as key obstacles to their business and the effectiveness of provisions to self-distribute.
- Discussion highlights:
 - Manufacturers cannot use a common carrier to distribute their product. The rationale was they are acting as a distributor and a distributor cannot use a common carrier. A retailer may make arrangements to use a common carrier.

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- The inability of manufacturers to use a common carrier is an obstacle to self-distribution, as well as the prohibition on central warehousing.
 - If the ability to use common carriers is considered, perhaps they should be licensed and/or required to report any missing product.
 - Questions were raised about quality issues if central warehousing is allowed. It was stated that quality is probably not an issue for self-distribution in general, but it could be if central warehousing is allowed, particularly for beer since it is perishable. Others believe any quality issues would be the domain of the manufacturers and retailers – the state shouldn't be worried about expired beer.
 - Impacts of central warehousing on beer and wine producers, and on distributors need to be considered.
 - Want data on what other states are doing. No recommendations were agreed upon.
- **2SSB 6823 – Impacts of 2SSB 6823**
- The actual impacts of the 2SSB 6823 changes cannot yet be determined since the new rules have only been effective since July 1, 2006. Discussion revolved around what would be important information to track and consider when there is more experience, prior to the expiration of the changes in 2008.
 - In the LCB fiscal note, they estimated the number of retailers that are expected to request out-of-state direct shipment endorsements to be about 10% (1,200) retailers. To date 51 have been requested.
 - Discussion highlights:
 - The important measure would be the number of retailers actually using their endorsement; actually receiving out-of-state shipments, not just the number that have the endorsement.
 - The quantity involved in the shipments will be important. How much is being shipped, and to whom.
 - Difficult to assess any societal impacts since it would be impossible to track which products contributed to any negative consequences – how would we know if societal impacts occurred as the specific result of out-of-state products that were directly shipped? Also measures such as citations or driving under the influence arrests are totally dependent on the law enforcement resources and not on how many are really out there, so they are not good measures (besides the fact of not knowing if the offense occurred due to product distributed directly from out-of-state manufacturers).
 - It is important to the wine industry to maintain the ability to self-distribute. We need to ensure any impact measures include what would happen to the in-state industry if they cannot self-distribute. [Note the U.S. District Court ruling stated that the state

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must either allow both out-of-state and in-state direct distribution, or prohibit both from direct distribution.]

- No specific recommendations were agreed upon.

▪ **Control and Enforcement – General Impact Measures**

- Background: the LCB lacks sufficient means or tools to identify and measure impacts of regulations and changes.
- Discussion highlights:
 - Everyone is looking for more data. This is a huge undertaking. Perhaps the Task Force should consider recommending that the LCB get more resources to build capacity to better measure impacts. Some were concerned that it is too big of an undertaking, and they would want to see small steps first.
 - Data is needed since most of the arguments are subjective. But where is the data? Other states do not have it either.
 - No specific recommendations were agreed upon.

Meeting 6 – September 28, 2006: Discuss Relationship Among the Tiers and Control and Enforcement categories high priority issues

▪ **Relationship Among the Tiers – General Tied House Regulations**

- Background: “Tied House” statutes and rules have been adopted by virtually every state, and at the federal level to regulate how alcoholic beverages are marketed and how the various industry tiers interact. They are designed to prevent inappropriate or coercive business practices among the sectors of the liquor industry, either through domination of one tier over another, or through exclusion of competitors’ products.

Washington’s Tied House statute (RCW 66.28.010(1)(a)) addresses the two fundamental aspects of tied house laws: 1) the prohibition against manufacturers, importers, distributors and authorized representatives from owning or having a financial interest in a retail license or owning property on which a retailer operates; and 2) the prohibition against the same entities from providing things of value (“money” or “money’s worth”) to licensees.

Washington’s Tied House statute was adopted, like all others, in the early 1930’s. Since then the business and consumer environment has changed dramatically, for example:

- Highly complex, diversified ownership arrangements have developed that were not contemplated in the 1930s;
- Business transactions occur in a global marketplace;
- Retail outlets have become significantly more diverse and manufacturers have multiplied into a diverse array of mostly small wineries and breweries, creating a highly competitive market;

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- Consumers are more sophisticated, demanding and accustomed to diverse selection; and
- The power of the supplier tier has been matched by the power of the mega-retailers.

Washington's approach to these changes has been to carve out discrete, targeted legislative exceptions as the need arises. The question to the Task Force is whether this is the best approach to changes in the regulations.

▪ **Relationship Among the Tiers – Ownership and Financial Interests (Tied House)**

- Background: The issue raised by stakeholders related to the ownership and financial interest areas of the Tied House regulations is that certain business arrangements are prohibited today even in circumstances where the opportunity for domination or control over the retailer is considered to be remote or controllable through other means. Many stakeholders believe the state goes to unusual lengths to prove and to prohibit a “tie” that may be many steps away from the ability to influence decisions.
- Discussion highlights:
 - It is not in any retailer's interest to carry only one or two brands, so don't believe ownership interests of manufacturers in retailers would result in exclusion of product or less choice for consumers.
 - Do not believe allowing manufacturers to have some interest in retail outlets would lead to misuse of alcohol; but it does constrain the development of economic interests and tourism for the wine industry.
 - Don't forget that the basic premise is that you do not want retailers beholden to manufacturers or distributors; the Tied House laws prevent that scenario.
 - The exception process allows the Legislature to deliberate on each issue and make a public policy decision – that is a good thing.
 - The current Tied House laws also help keep big retailers in check.
 - Believe there could be less restrictive rules – the state must go too far to find an ownership interest; should be more directly linked and allow for a certain amount of exception – a percentage of ownership that is allowed.
 - Ownership issues related to advertising are important to consider; advertising can lead to youth perceptions that alcohol is okay, and therefore lead to underage drinking and/or abusive consumption.

▪ **Relationship Among the Tiers – Money's Worth (Tied House)**

- Background: The issue among stakeholders related to the prohibition of “money's worth” – the prohibition against manufacturers, importers, distributors and authorized representatives from providing things of value to licensees – is that suppliers and retailers have difficulty understanding where the line is drawn between allowed and prohibited activities, and *why* the

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line is drawn where it is. They believe there are too many prohibitions on what they consider to be ordinary business practices.

- Discussion highlights:
 - The group mostly agreed that it would be beneficial to identify a group of practices, currently prohibited, that could be allowed. This would address many items they consider frivolous and which would not contribute to alcohol misuse, but would allow them more discretion to market their products and conduct their business.

Meeting 7 – October 12, 2006: Discuss draft recommendations and review draft Task Force report

▪ Tied House – Ownership

- **Current Regulations:** Statutes generally prohibit suppliers (manufacturers, distributors, importers, authorized representatives) from holding a financial interest in a retail licensee, from owning property on which a retail licensee operates, and from owning a retail license outright. Exceptions have been granted. In particular, wineries and breweries may operate as manufacturer, distributor, and retailer of their own product.
- Discussion highlights:
 - The group generally agreed that loosening of the tied house ownership restrictions would be beneficial, but was not comfortable with including any specific percentages of ownership or financial interest that would be allowed.
 - The current approach of vetting proposals through the legislative process works well and shouldn't be changed.
 - Community representatives could not support if regulation related to naming rights would be liberalized.
- **Task Force Recommendation (adopted 9Y to 3N):** Encourage the liberalization of the tied house ownership restrictions, and work with the LCB to arrive at a workable solution.

▪ Tied House – Money's Worth

- **Current Regulations:** Manufacturers, distributors, importers and authorized representatives are prohibited from providing items of value (money or money's worth) to retailers. Exceptions have been granted to address specific situations.
- Discussion highlights:
 - The draft alternative is directed to retailers. The really significant and large exception to the money's worth provision is embedded in pricing of the product. The price from the distributor is comprised of three components: cost of the product itself, cost of delivery and cost of services. Because the cost of service is embedded in the price, all retailers must pay it even though many do not use the services. That is a huge benefit to the larger retailers that do use the services, in the form of free labor.

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- Some exceptions that have been granted are quite large. The LCB should reexamine all the existing exceptions to determine whether they in fact are still relevant and consistent with the state's policy goals. Others raised concerns that reexamining all the existing exceptions is a very big job and the task force should focus on future proposed exceptions.
 - Granting exceptions through the legislative process has not always provided sufficient time and opportunity to fully consider the policy implications of a requested exception and does not always allow for a full airing of all perspectives. Directing the LCB to work with stakeholders to prepare a list of proposed exceptions will allow for more full consideration of all the views and impacts. Some are concerned that convening a group to draft a list of proposed exceptions is difficult and may not be able to respond to the ever-changing role of the retailer.
 - From an enforcement perspective, want LCB enforcement to focus on critical outcomes (such as underage drinking) rather than on the number of coasters a retailer can receive from a supplier.
 - **Task Force Recommendation (adopted 15Y to 0N):** Continue the state's current approach of providing specific exceptions to the prohibition against providing money's worth to retailers, and direct the LCB to work with stakeholders to re-examine current exceptions and develop a comprehensive list of proposed exceptions for legislative consideration. When developing the list of recommended exceptions, the LCB should consider: (1) industry business needs, (2) customer benefits; (3) whether it creates an unwanted inducement for retailers; (4) the potential for increased misuse of alcohol, and 5) enforcement resources.
- **Use of Common Carriers**
- **Current Regulations:** Manufacturers and distributors may not contract common carriers to deliver product to retailers. However, retailers may contract with common carriers to pick up and deliver product to their premises.
 - Discussion highlights:
 - Distributors do not support using common carriers. With the expansion of the self-distribution authority, we are going through a paradigm shift in relation to the number of entities involved in the distribution of alcohol. The current system works best because it provides control. But if manufacturers are allowed to contract with common carriers, the state should implement a strong licensing requirement.
 - Common carriers are already being used when product is ordered by the retailer. Expanding that to suppliers would not be changing whether common carriers can be used, it would be changing who can contract for it. Other states use an approval process rather than a licensing requirement. A stringent licensing requirement would be burdensome and would likely limit the carriers that would be willing to participate.

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- There is an inconsistency in the logic of the current regulations if manufacturers are not allowed to use common carriers because of the lack of control, but retailers are allowed to use them. The state should also be consistent with any licensing or approval requirements placed on common carriers when transporting alcohol direct to the consumer.
- This discussion focuses on licensee to licensee relationships, so diversion of product and illegal sales is far less likely than, for example, when delivering to the consumer. It's important to both the manufacturer and the retailer to maintain their relationship, get product, and pay for it. They would have a vested interest in reporting any diversion of product.
- **Task Force Recommendation (adopted 13Y to 2N):** Allow manufacturers and distributors to ship their product to retailers using common carriers and consider establishing a licensing requirement for all common carriers delivering alcoholic beverages regardless of origination.
- **Central Warehousing**
 - **Current Regulations:** Beer and wine must be delivered directly to the retail licensee's premises. Central warehousing – storing beer and/or wine at a central location for distribution to individual retail outlets – is therefore, prohibited.
 - Discussion highlights:
 - It is unclear whether central warehousing should be limited to only those warehouses owned by the retailer corporation (such as a chain grocery store that would deliver product from its own warehouse to its own licensed retail outlets), or whether cooperatives (such as Associated Grocers) and franchise operations (such as 7-11s) should have central warehousing opportunities.
 - Requiring that a warehouse must be located in Washington raises commerce clause questions.
 - Central warehousing raises a concern about diversion of product and other enforcement issues. Distributors know, for example, what can and cannot go into an alcohol impact area. Need to ensure we can track product for taxation purposes as well.
 - When wine is shipped to the warehouse, it would be a taxable event. This might actually make enforcement and tracking for tax purposes simpler.
 - From a small producer's standpoint, the ability to deliver to a central warehouse of a retail facility would allow a much greater ability to participate in self-distribution.
 - This may be a different issue for beer and wine products. If beer is going from a Seattle warehouse to Bellingham, who is responsible for removing out-of-date beer in Bellingham?

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- There is concern that allowing central warehousing would lead to an unlevelled playing field. The grocery industry is very diverse, some grocers tied into central warehouses, others not.
- **Task Force Motion (not adopted, 5Y to 8N):** Allow central warehousing as long as each central warehouse is owned by the retailer, stores and distributes only the retailer's purchased product to its own licensed retail outlet (i.e. no retailer-to-retailer delivery or sales), the warehouse is appropriately licensed, and documentation is required showing the product was purchased legally and distributed legally (to licensed establishments) – to allow for appropriate tracking, an audit trail and minimized diversion.
- **Post and Hold**
 - **Current Regulations:** Post and Hold – the requirement for manufacturers and distributors to post their prices for each SKU with the LCB by a prescribed time each month, to be effective at a later date and hold them from for at least one calendar month after the effective date.
 - Discussion highlights:
 - The court found the “Post and Hold” to be illegal, and Costco does not believe the draft alternative is legal either.
 - Experience has shown that the current post and hold practices in Washington does not eliminate changing prices. Posting and monitoring resources could be used more effectively.
 - Some kind of hold is necessary for price stability. Price posting is an enforcement tool for the LCB to make monitoring easier. The LCB only has 5 enforcement officers, so electronic posting is an efficiency tool.
 - The checks and balances of the state's post and hold regulations are not necessary. In Alaska, for example, tobacco pricing is self-policed by the industry. Retailers make complaints against each other if they violate pricing policies. It seems to work well for the marketplace to direct prices and allow the industry to monitor violations. Post and hold does not bring stability to pricing. How do we know the post and hold system does not prevent more instability? How long prices are offered doesn't necessarily contribute to stability, and stable prices do not necessarily contribute to prevention of misuse.
 - Eliminating the price hold makes it difficult to enforce the other pricing regulations.
 - California does not have a price posting and hold requirement for wine and there have been no price wars. Price wars were used as a justification in the 1930s when the system was originally put in place.
 - There are wines and beers now that are cheap. Post and hold does not prohibit cheap product. But, if a manufacturer misses a posting deadline on a new product, it cannot offer that product for another month and a half. And, small wineries aren't interested in price fluctuations. They will set their prices and leave them. Bigger

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wineries might vary some, but most do not want to change daily. There are too many costs involved in changing prices frequently. Business will price where the market will bear, not so low we are not making money.

- Price posting and price hold should be considered separately.
- Two motions were considered but were not adopted before the third motion was adopted as the task force recommendation.

- **Task Force Recommendation (adopted 6Y to 5N):** Eliminate price posting.

▪ **Mandatory Minimum Mark-up**

- **Current Regulations:** The state requires manufacturers to mark-up the price of their product to a distributor by at least 10% above cost, and for distributors to mark-up the price of their product to retailers by at least 10% above cost.
- Discussion highlights:
 - *The task force is concerned that its recommendation not be construed to affect other aspects of pricing regulations such provisions allowing close-outs and prohibitions against selling below cost.*
- **Task Force Recommendation (adopted 7Y to 5N):** Eliminate mandatory minimum markup requirement.

▪ **Credit**

- **Current Regulations:** Distributors may receive credit terms from product purchased from manufacturers, but retailers must pay cash (or cash equivalent) on delivery for products purchased from a distributor. (Current regulations allow credit to retailers on non-alcoholic products with 30 day terms.)
- Discussion highlights:
 - It is not clear how a distributor can offer credit and still deal with other pricing regulations (i.e., uniform pricing). Distributors are concerned about retailers overextending themselves. Allowing credit provides opportunities to abuse the system.
 - Retailers can currently use credit cards to purchase product from a distributor. So allowing them access to credit from the distributor should not present any greater risk of overextending. And, there is no requirement that a distributor must extend credit terms, only would allow them to if they so choose. The distributor has the option to decline if the retailer does not present a good credit risk.
- **Task Force Recommendation (adopted 9Y to 3N):** Allow the option for manufacturers and distributors to offer credit to retailers, with specific terms – 30 days, and reporting requirements and penalties for default (temporary license suspension and/or cash penalty), such as the Texas model.

▪ **Uniform Pricing**

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- **Current Regulations:** Uniform Pricing – Each product must be offered from manufacturers and distributors to all buyers at the same price.
 - Discussion highlights:
 - The market allows for many methods of competition beyond just price. Others use level of service, selection, etc. Costco adds value through price. We believe we should be able to negotiate price and offer any savings to customers. That approach does not have to be inconsistent with state policy goals. Alcohol distribution should be regulated in ways other than pricing.
 - Community representative cannot support market-driven pricing.
 - The issues here are similar to those under delivered pricing. There are several costs (product, delivery, service) all rolled into one price. These need to be separated.
 - **Task Force motion (not adopted 6Y to 7N):** Require uniform pricing on product but allow negotiated delivery and service costs.
- **Volume Discount**
- **Current Regulations:** Ban on Volume Discounts - Volume discounts are not allowed under any circumstances for manufacturer or distributor sales. The price per unit must be the same whether they are selling one unit or 1,000 units.
 - Discussion highlights:
 - Beer and wine should be considered separately. Distributors have a contractual obligation to take back beer that is expired. A retailer could buy too much on discount and then expect the distributor to take it back. This approach, however, simply would allow (not require) the distributor to offer a volume discount. Details about how this would be drafted can be worked out later.
 - Concerns that volume discount would put small retailers at a disadvantage. But small retailers do not compete on price. Their value is convenience. Small retailers will be affected by non-uniform pricing. Small retailer prices are higher because we do not get services that others get for free and yet we still pay for them through the cost of the product. Volume discounts would mean different margins for small and large retailers. Smaller retailers cannot play in large volumes. Also, if all of a winery's wine goes to a large retailer because of a volume sale, the small retailer may not have the opportunity to carry it.
 - Lower prices do create problems on the prevention side. The state needs to look at the impact on misuse, not just about what is best for the customer. However, the current system makes it worse for public safety in some ways. It must be cheaper to deliver more units than less. That means small retailers are being subsidized. Allowing volume discounts eliminates that subsidy, meaning that smaller impulse

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sales are probably more expensive which is usually where the public safety problems occur.

- Part of the concept behind the current system is to discourage pushing alcohol in high quantities. Would the state pass other regulations to discourage that, such as eliminating happy hour?
- Some distributors like the notion of volume discounts, some do not.
- **Task Force Recommendation (adopted 7Y to 4N):** Allow volume discounts, with the same volume pricing available to all customers. That is, if there are price breaks at 10, 100 and 500 units, those price breaks are offered to all customers.

▪ **Delivered Pricing**

- **Current Regulations:** The price of delivery must be included in the price of the product, including all related services such as stocking and rotation, and it must be the same for all customers.
- Discussion highlights:
 - The issue here is the price is a blended price reflecting three items (the price of the commodity, a variety of services, and the cost of delivery). That is a problem for everybody. Everyone wants to pay the same price for the product, but no one wants to pay for services they do not use. Any recommendation coming from the Task Force should reflect that we're paying the same price for the product. Multiple service levels would be difficult, but shifting that cost from merchandising would be significant.
 - Washington is on the most restrictive end in this area. Fuel surcharges would not be difficult, but varying service levels in the pricing would be. Eliminating delivered pricing would create a significant advantage for some retailers. And there is a big difference between beer and wine in this area.
 - The Task Force should not adopt a recommended approach that supports subsidizing alcohol prices, such as subsidizing distant buyers by raising prices of the nearby buyers.
 - Consumption data provided to the Task Force does not seem to correlate prices and regulation. License states do not seem to have higher consumption than control states, and Washington appears to be somewhere in the middle of the pack. In fact, our wine consumption is on the higher end, even with our regulation and higher prices. There are so many factors around consumption. Some deal with regulation and others are completely separate.
 - The Task Force should consider setting benchmarks about where we want to see the state in five years and then collect data to see if those goals are being achieved.
 - Taxation is an element the state has the ability to control in order to control price. And it is more direct and efficient than using distributors to control price. The state

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can achieve its objectives through other means than through the mechanisms of pricing and forcing the use of the distributor tier.

- Two motions were offered, but not adopted.

■ **LCB Enforcement Resources**

- **Background:**

- Discussion highlights:

- If price posting is eliminated, that does not necessarily mean enforcement resources will be freed up.
- Enforcement is needed and right now, the City of Seattle has to do its own liquor enforcement because the LCB does not have sufficient resources. This means those city resources are not available elsewhere. This is one of the city's biggest gaps. Seattle has 2,400 retail licensees and about 4 enforcement officers. The lack of resources hurts everyone.
- In some areas, prevention dollars are being used to fund law enforcement to do on-site checks.

- **Task Force Recommendation (adopted 15Y to 0N):** The Task Force recommends that the LCB be supported by adequate enforcement resources and that those resources grow in consideration of population increases and increases in liquor licenses.

■ **2SSB 6823 Impact Measures**

- **Current Regulations:** 2SSB 6823 requires the task force to examine the impacts of implementing the expansion of the self-distribution authority to out-of-state manufacturers.

- Discussion highlights:

- The state is rich with social indicator data. Those data need to be incorporated when we're looking at impact measures.
- The focus here is specifically on the impacts related to changes associated with 2SSB 6823. If we're evaluating the impacts of this bill, then there needs to be a causal link. The analysis needs to focus on, for example, those manufacturers and retailers that have used their license, not just whether they have been granted one.
- This is one issue the Washington Wine Institute has weighed in on because it is so important to the health of the in-state industry. The draft alternative does not address the impact of NOT having the out-of-state authority in place. The alternative to this bill is that the authority for in-state manufacturers to self-distribute would be eliminated. We would likely lose a lot of small wineries if that were to occur.
- Cost of enforcement needs to be tracked so the legislature can fold that cost into the cost of the license.

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- It will be difficult, if not impossible, to get any good data yet, given that the usage of the expanded authority has been a trickle. Although it is important to look at what is happening, and what costs are associated, the question is whether any useful information will come from it.
- Is retail price available in any meaningful way? No. There would be some information available through Nielsen, but a study would have to focus on those retailers actually using the authority. And, the sales associated with the authority will be such a small piece of the pie trying to track down those sales would amount to nothing more than busy work. Premium wines would not have even gone through a vintage, so the study would have to focus on jug wines and beer.
- The value of price information would be associated with general impacts not necessarily with the impacts of 6823.
- State liquor stores have a pricing history. Can those data be used? No, since there will be no change related to prices there.

○ **Task Force Recommendation (adopted 11Y to 0N):**

- The LCB should identify and select key impact measures that can be monitored and analyzed by the Fall of 2007, to provide the Legislature with data about the impacts related to the implementation of 2SSB 6823.

The LCB is encouraged to work with stakeholders and legislative staff to identify the most pertinent impact measures. Key impact measures should be tied to the state's policy goals and should address the impact to industry, consumers, the state and society. And, to the extent possible, consideration should be given to selecting measures for which baseline data is already available. Basic data should be collected and reported; suggestions include:

- the number endorsements granted to of out-of-state manufacturers and in-state retailers to use the expanded authority;
- the volume of product sold through out-of-state self-distribution;
- the size and type of retailers using the authority; and
- tax revenue collections.

▪ **General Impact Measures**

○ **Discussion highlights:**

- Throughout the discussions of the task force, one of the main problems has been the lack of data. There is a lot of social and health indicator data available throughout the state. The LCB should be encouraged to work collaboratively with other state agencies, using both independent (newly developed) and relevant existing analysis.
- The timing may not be right for this. We don't know yet what the system will look like in the future as a result of the Costco suit. The intent, however, is to collect

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information not just because of the suit, but because of the on-going need for better and more information so the Legislature and the LCB can make data-driven decisions. It is important to set the systems in place to develop this capacity now so that we have comparative data when changes occur.

- NCSL (the National Conference of State Legislatures) is not collecting any of these data either. Washington is on the cutting edge of these types of discussions.
 - How this capacity would be funded, and what level of staffing resources are needed, is unknown. If the task force does not reference the FTEs needed, we may be creating an unfunded mandate. The task force does not need to specify these, just make it clear that there needs to be more and better data collection and analysis to determine the effectiveness of our alcohol distribution regulations.
 - The state needs to determine whether there is actually a link between our regulations and alcohol consumption. It is not clear that there IS a link. This will also require depoliticized, neutral data.
- **Task Force Recommendation (adopted 10Y to 2N, 1 abstain):** The Legislature is encouraged to provide funding to the LCB to develop research and analysis capability, and work collaboratively with stakeholders and other agencies and organizations to collect independent data, and to use/analyze existing data.
- **Task Force Recommended Policy Goals**
 - **Discussion highlights:**
 - There are certain regulations and laws that have gray areas and when industry goes to the LCB for clarification, the LCB seems to base their response on strict enforcement. The LCB has a two-edged mandate: to control alcohol and to sell alcohol.
 - The revised language addresses some task force member concerns that the preamble not be drafted in a way that it would override the state policy goals.
 - This preamble precedes the three recommended state policy goals agreed on by the Task Force during meeting #2.
 - **Preamble to the recommended policy goals decided by the Task Force (adopted 17Y to 0N)**

The task force believes that an appropriate alcohol regulatory system for beer and wine sales and distribution should be based upon the three policy goals set forth below. In creating and interpreting such a regulatory system, the Legislature and the LCB should consider the economic development of wineries and breweries and related industries, so long as the LCB and the Legislature also consider any adverse impact of any proposals on public health safety or welfare.

Appendix D

Task Force Meeting Discussion Summaries

Meeting 8 – November 17, 2006: Finalize Task Force report and Presentation on LCB Enforcement Resources

- Review and discuss final draft report and agree on final changes.
- Presentation regarding LCB enforcement resources.

Appendix E

Detailed Interview Results – Current System Strengths, Weaknesses and Suggested Changes

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This document represents Sterling Associates' interpretation of statements collected during stakeholder interviews. Statements represent the opinions of the interview participants, and have not been verified for accuracy or correct application of practice or law.

General themes/statements have been attributed to the groups/individual representatives included in the interviews/focus groups (see list on last page). They may or may not reflect the opinions of the majority of individuals comprising the entire population of those groups. Comprehensive surveys of opinions have not been conducted.

[NOTE: Numbers have been added for easier reference during discussions. They do not suggest priority or any particular order.]

Interview Questions

The following standard questions were used in each focus group to stimulate thought and guide the discussion.

1. What is your (or your organization's) involvement/role in the beer and wine sale and distribution system?
(Type of liquor license held, how long in business, location, small v. large, in-state v. out-of-state)
2. What are the strengths and weaknesses of the current system?
3. How does the current system constrain or assist your business?
4. What are the highest priority areas for change in the system? Why?
5. What improvements or solutions would you suggest?
6. Are there components of the system you feel should not be changed? Why?
7. Does your firm operate in other states? If yes, how does operating in Washington compare with other states?
8. Do you feel the three-tier system out-dated? If yes, why / how / and what suggestions do you have for alternatives?
9. What other issues should the Task Force be aware of during this review?

Summary of Themes

In General Agreement

1. The state should regulate and enforce laws directly related to the misuse of alcohol and effective tax collection. All agree there should be strong enforcement of prohibitions on serving/selling to minors and over-serving/selling to inebriated individuals.
2. There were no suggestions that the state should not control distribution through licensing.
3. The state lacks sufficient resources to adequately enforce prohibitions on serving/selling to minors and over-serving/selling to inebriated individuals (and some included a lack of resources for compliance of trade practices as well.)

4. Distributors offer a valuable, efficient service to producers, retailers and the state, and they would continue to be heavily utilized for distribution without mandatory use or other rules/practices that force their use.
5. Current regulations are overly complex, hard to understand and prone to inconsistent interpretation. (wholesalers association are exception to this theme)

Major Themes with some contrary opinions

6. The state should control misuse of alcohol and tax collection, but should not regulate business practices that are not directly tied to those two objectives. (Exceptions: wholesalers association, some treatment/prevention/law enforcement members, minority of small producers/retailers.)
7. The social, political and economic environment has changed substantially since the alcohol control laws were established. The regulations should reflect positive changes in education, attitudes and behaviors towards beer and wine, and should reflect the attitude of the legislature in supporting the Washington beer and wine industry. (Exceptions: treatment/prevention urges care in assuming permanent changes in attitudes and habits. Alcohol is still a controlled substance capable of creating harm to individuals and society.)

Contrasting themes

8. The system generally works. Use the current change mechanism when needed. It is dangerous to change regulations without knowing how the interrelationships among the rules will be affected or how they will affect outcomes (wholesalers association, minority of small retailers/producers, prevention/treatment).
9. Most business advantages in the current system (perceived as “leveling the playing field”) are out-weighed by the business constraints. The system needs to be dramatically changed, letting the market control the business aspects (that don’t contribute to misuse) rather than the state. (most large and small producers, most large and small retailers).

Specific Items mentioned as candidates for change (in no particular order)

1. Mandatory use of distributors and regulations that effectively force their use
2. Provisions in 2SSB 6823 (required by the legislation for the Task Force to examine)
 - a. Self-distribution
 - b. Controls for tracking for tax purposes
3. Advertising regulations
4. Money's worth provisions / trade practices
5. Ownership interests related to producers and retailers
6. Anti-competition regulations (that could be handled instead through FTC)
7. Uniform pricing
8. Mandatory minimum 10% price mark-up
9. Price posting and hold
10. Retail to retail distribution
11. Quantity discounts
12. Foreign import distribution regulations
13. Return of damaged goods
14. Sampling in grocery stores
15. Delivered pricing requirement for distributors
16. Rules for LCB retailing
17. Central warehousing
18. COD requirement for retailers
19. Criteria for regulations
20. Criteria for interpretation of regulations
21. Priority of enforcement resources
22. Enforcement resources (lack thereof)
23. Paperwork
24. Impact measures (lack thereof)
25. General regulation language and relevancy
26. Dual nature of LCB (enforcement/control and retail/promotion)
27. Role of LCB in supporting state economic development

| STRENGTHS | WEAKNESSES | SUGGESTIONS FOR CHANGE |
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| THE THREE TIER SYSTEM and GENERAL TIED HOUSE LAWS | | |
| <ol style="list-style-type: none"> 1. There is more diversity of product in the beer and wine industry than any other. The current system has ensured this diversity. Other product lines do not have nearly the diversity (i.e. chips, or soda with several major brands, compared to thousands of wine brands). (wholesalers association) 2. The system today is generally good. It is orderly, fosters small business, and should remain intact. (small brewer; small wine producer; wholesalers association) 3. There may be some issues that need to be addressed, but should wait until the Costco suit is settled. It is premature to make major changes now. (wholesalers association) 4. The tied house laws have kept abuses (i.e., coercion of retailers by producers) and unfair trade practices in check. (Would not want to lose prohibition against direct tied house business relationships.) (LCB) 5. The fundamental separation of the manufacturing tier from the retail tier is important and must remain intact and regulated. Without this in place the state will end up with tied houses. Distributors also have a regulatory reason to exist. | <ol style="list-style-type: none"> 1. It is difficult to know what has been prevented by having the system in place. Risk avoidance – what doesn’t happen – is hard to measure when it is successful. (LCB) 2. Independence between manufacturers and distributors has diminished over time. (LCB; large retailers; WA wine producers; WA brewers) 3. Corporate structures and ownership arrangements have changed dramatically since the 1930s. The tied-house laws have not kept pace. Board members for owners of retail establishments and landlords have to sign a waiver that says they will open their financial books to the state. This is intrusive and unnecessary, and has led to absurd results (investigating the cross-ownership ties of individuals three layers removed from the investor.) There is no other type of investment that requires this level of scrutiny. (on-premises licensees; sports/entertainment) 4. Restrictions on monopolistic practices are still relevant today. However, the LCB does not need to have rules for this. The FTC is vigilant in reviewing mergers, etc. to ensure antitrust laws are not violated in the market. (large | <ol style="list-style-type: none"> 1. Revise ownership interest rules to bring more in-line with modern business structures/organizations. (on-premises licensees; sports/entertainment) 2. Allow FTC regulations to control business practices related to preventing monopolies and non-competitive practices. (large retailers; on-premises licensees) 3. Limit controls to misuse of alcohol, not restraints on free trade. (large retailers; WA wine producers; WA brewer; specialty retailers; on-premises licensees) 4. Revise rules that require or have the effect of requiring use of distributors. (WA wine producers; WA brewers; large retailers; specialty retailers; CA wineries) 5. Revise money’s worth regulations to be more reasonable and enforceable. (specialty retailers, WA wine producers, WA breweries) 6. Adopt regulations to support the modern market place, while still controlling the product against misuse and for tax collection. Don’t create false barriers. (CA wineries) 7. If restrictions are loosened on one |

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| <p>However, making the use of the distribution tier voluntary will force distributors to bring more value to the supply line. (WA brewers)</p> <p>6. Mandatory use of distributors has positive effects in ensuring compliance with regulations for prohibited practices and quality control. (wholesalers association; LCB; law enforcement)</p> <p>7. Mandatory use of distributors ensures small retailers and producers will have a means to receive and distribute product. Without mandatory use of distributors, small retailers may not be able to get product or distribution may be more expensive, but distributors will still be in business because it is the most efficient and cost-effective means of distribution. (wholesalers association; specialty retailer)</p> <p>8. Distributor tier aids the small retailer because the small retailer does not have sufficient staff to interact with each winery individually, and even if they could the wineries would not be interested in dealing directly with each small retailer. (specialty retailer)</p> <p>9. The distributor tier handles most tax collection. There would likely be an increased cost to the state to collect taxes if distributors were no longer mandatory. (LCB; wholesalers association)</p> <p>10. Today's system provides an efficient way</p> | <p>retailers; on-premises licensees)</p> <p>5. The anticompetitive aspects of the three-tier system do not serve the consumer. Controls should be limited to the misuse of a controlled substance, but should not be tied to restraint of free trade. (large retailers; WA wine producers; specialty retailers; on-premises licensees)</p> <p>6. Mandatory use of distributors is not necessary. There will still be a significant demand for distributors of beer and wine. State law does not prohibit distributors from establishing minimum delivery amounts, so can already decide not to deliver to the small or remote retailer. Laws allow for delivery of product in quantities less than a full case. Small distributors will likely fill the niche for small retailers and producers who cannot compete for the attention of larger distributors. Distributors will probably continue to be more cost-effective for most suppliers/retailers, so there is no longer a need for state law to make the use of a distributor "mandatory." (WA wine producers; WA brewers; large retailers; specialty retailers; CA wineries; independent wholesalers)</p> <p>7. Mandatory separation of the tiers is not necessary. The three tiers will continue to operate as tiers because that's how the industry is organized, even if there is not mandatory separation. (specialty retailers;</p> | <p>aspect of the three-tier system (e.g., retailers are allowed to sell or distribute to other retailers) then tied-house restrictions on the distributor tier should also be loosened (e.g., allow distributors to sell directly to customer). (independent wholesalers)</p> <p>8. Any changes in the existing system need to be accompanied by strong enforcement. (independent wholesalers)</p> <p>9. Focus of the review should be whether the current system benefits the public related to reasonable prices, mitigating misuse and collecting tax revenue. The state should not be regulating to protect market share. (consumer)</p> <p>10. Need data to inform decisions; other states similar to WA and other statistics that can link controls (or lack of) to public benefit (or harm). (consumer)</p> |
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| <p>to collect taxes. But there are other ways it can be done, as it is for other products. (on-premises licensees; WA wine producers)</p> <p>11. Distribution tier provides a local contact when an enforcement issue comes up involving an out-of-state producer. The local contact is the first line of enforcement. It provides a local point of contact for the LCB to start inquiries and enforcement activities. (other brewer; LCB)</p> <p>12. An “orderly market” includes a licensing system to provide a record of who is doing what. This aspect of the orderly market concept is good. (CA wineries)</p> <p>13. The “orderly market” concept is good for tracking product, knowing relationships among players, physical control, limiting bootlegging and product diversion outside of the system, limiting undue influence and special deals. (other brewer)</p> | <p>WA brewers; large retailers; WA wine producers; independent wholesalers)</p> <p>8. Many of the Tied House laws are arcane and do not make sense today. Prohibition on “money’s worth” is a catch-all for almost everything. Examples include prohibition on anything construed as joint advertising, winery representatives cannot pour their own wine at wine shops (even if the wine shop has purchased the wine); signatures on bottles, etc. (specialty retailers; WA wine producers)</p> <p>9. Many of the Tied House laws are not enforced, so the businesses that do abide by them are at a disadvantage with all those that don’t. (specialty retailers; WA brewer; on-premises licensees)</p> <p>10. Distributors offer services that are very valuable to retailers and demand for these services will not go away, regardless of the regulatory system. But it should be the retailer’s choice – a business decision based on market forces, not regulated by the state. (on-premises licensees; specialty retailers; WA wine producers; WA brewers; large retailers; independent wholesalers)</p> <p>11. The law protects distributors from competition. Somewhere, someone is getting rewarded for the status quo. (on-premises licensees)</p> | |
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| | <p>12. Tax collection will be in jeopardy with more direct shipping, especially out-of-state shipments. (wholesalers association)</p> <p>13. The current system assumes the biggest influence will come from the producer tier – as was the case when the laws were conceived. It does not address the growing economic power of the retail tier. (LCB; wholesalers association)</p> <p>14. It is no longer clear whether tied houses are even a problem in today's environment. Need to have someone explain why we shouldn't allow them. In England they have tied houses, but they also have free houses and they have thriving specialty wine shops. (WA brewer; independent wholesaler)</p> | |
| STATUTES AND RULES – GENERALLY | | |
| <p>14. The current system of regulation is flexible and allows for evolution and adaptation to changes in the environment. A massive change is not necessary and is not desirable. (wholesalers association)</p> <p>15. Statutes and rules are not overly complicated. Distributors help retailers to navigate them. (wholesalers association)</p> <p>16. When known problems emerge, special rules are adopted to address them, i.e., the Alcohol Impact Areas.</p> | <p>15. Statutes and rules have been repeatedly modified over time with changes and exceptions, and they are overly complex, too inflexible, hard to understand, impractical, and often irrelevant in today's environment. There are myriad bad rules and too many hoops to jump through. Very little about the rules is working well. There should be a complete rewrite. (WA wine producers; WA brewers; large retailers; legislative staff; specialty retailer)</p> <p>16. Too much cumbersome paperwork and</p> | <p>11. Start from scratch to review the entire set of rules and statutes and rules related to beer and wine and rewrite them. The Task Force should suggest criteria for the review and rewrite. (WA wine producers; large retailers; specialty retailers; legislator; legislative staff)</p> <p>12. Rules need to be greatly simplified. Regulatory scheme should generally support the free market unless there is a harm to the public. (large retailers; WA wine producers; specialty retailers)</p> <p>13. Reduce regulations and paperwork.</p> |

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| <p>(prevention/treatment)</p> <p>17. Current rules allow monitoring of flow and volume of alcohol for efficient tax collection and controlled availability to discourage over-consumption. Efficient and effective tax collection provides funding to address education and health care. (LCB)</p> <p>18. The current system offers strong support for the prevention of alcohol abuse. The system is good, and it provides an open and active mechanism for input (the advisory board) and a dynamic, responsive process for addressing issues. The LCB is regulatory, but it also reinforces limiting underage drinking through its regulations, education and training. (prevention / treatment)</p> <p>19. Environmental influences (advertising, presence of alcohol, adult behavior, etc.) impact youth the most. The current regulations protect youth, to a certain extent, from over-exposure to alcohol, such as no samples in grocery stores where kids are regularly present with parents. (prevention/treatment)</p> <p>20. The current system works well the way it is, and there is no need for changes. If there are changes to the system (such as allowing volume discounts and central warehousing) there will be an impact to wholesalers which ultimately will put some small retailers out of business.</p> | <p>regulations. The intent of most of the rules we can live with, but everything needs to be streamlined. We could also work with significant change. Just need to know what it is. (independent wholesalers)</p> <p>17. Too much unnecessary paperwork, including redundant processes with different rules between the federal government and the state, i.e., wine label approval. (WA wine producers)</p> <p>18. Complexity and exceptions create legal liabilities and make it difficult for the regulated industry and general public to understand and support the rules. (LCB)</p> <p>19. The interpretation of the rules is negative. Everything is prohibited, and allowed only by exception. It should be the other way around. The LCB staff should be supportive of industry (or at least neutral), not looking for ways to keep the industry from doing things. (WA wine producers; WA brewers; specialty retailers; on-premises licensees)</p> <p>20. The legislature has chipped away at the rules, undermining the integrity of the structure so it is hard to explain and defend. (LCB)</p> <p>21. The review of rules is important to stay current and to ensure the rules support the current environment. The LCB has not reviewed the whole regulatory structure to assess its relevance in today's</p> | <p>(WA wine producers; legislative staff)</p> <p>14. LCB needs to better articulate the reason (intent) of the rules it develops. (specialty retailer)</p> <p>15. Identify what is not practically enforceable or does not focus on misuse, and eliminate them. Don't waste time and effort on what is not important, i.e., signing wine bottles, pouring wine, live links on web pages. Focus resources on what is important – misuse of the product or true collusion activities. (specialty retailers, WA wine producers)</p> <p>16. Sampling in grocery stores should be allowed. (WA wine producers; large retailers)</p> <p>17. The LCB should consider requiring retailers to separate the nonalcoholic beverages (hard lemonades, energy drinks, etc.) from the alcoholic beverages. The combining of the two tends to blur the lines between them and increases the opportunity for purchasing errors. (prevention/treatment)</p> <p>18. If the state is going to restrict the market it should focus on where abuse occurs, e.g., fortified wines. (independent wholesalers)</p> |
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| (small retailers) | <p>environment. This review is very important. (LCB)</p> <p>22. The state is unable to effectively articulate the reason for specific rules being in place. What are they trying to accomplish? (specialty retailer)</p> <p>23. LCB and distributors act in tandem. Laws should be designed to support the market not a particular segment of the market. For example, the self-distribution statute passed this session allows for self-distribution by out-of-state producers, but its rules around using a common carrier are written in a way that essentially forces the producer to still go through a distributor. (large retailers; WA wine producers; specialty retailers)</p> <p>24. Regulation because it's alcohol is fine. Regulation to restrain trade is not fine. (large retailers; WA wine producers; specialty retailers)</p> <p>25. The LCB does not allow sampling in grocery stores because kids can be there, but nothing prohibits kids from going into retail wine shops. (WA wine producers; large retailers)</p> | |
| LCB IN THE BUSINESS OF SELLING BEER and WINE | | |
| 21. The LCB retail business provides an outlet for some smaller wineries that would be hurt without it. (LCB; wine producer representative) | 26. The LCB does not follow its own rules. This creates a double standard. The LCB does not have to price post, pay at delivery, price according to the same | 19. Let the private sector participants use the same processes for beer and wine pricing and sale that the LCB uses. The LCB should be following the same |

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| 22. State liquor stores do not represent significant competition to private sector retail since beer and wine are not a large part of their market share. (LCB) | <p>standards, or buy product at the same price as everyone else. This means they can offer more competitive beer and wine prices, and they do not have the same burden everyone else has in complying with the process. (WA wine producers focus group; legislators; specialty retailers; large retailers; WA brewers; independent wholesalers; small retailers)</p> <p>27. The LCB regularly sells wine at lower prices than other retailers. Yet they say lower prices encourage more consumption. These kinds of inconsistencies make it difficult to accept their justifications for some rules. They are in conflict with themselves. (WA wine producers; specialty retailers; small retailers)</p> | <p>rules as everyone else, or should get out of the business. (WA wine producers; legislator; WA brewers; large retailers; specialty retailers; some small retailers.)</p> <p>20. The LCB should not be in the beer and wine retail business. (specialty retailers; small retailer)</p> <p>21. If the volume pricing rules change, the LCB should get out of the wine/beer retail business. (small retailers)</p> |
| LEVEL PLAYING FIELD CONCEPT | | |
| 23. The level playing field strategy in pricing (ensuring that all retailers can purchase product at the same price) has enabled highly diverse, high quality beer and wine industries to thrive in Washington, by equalizing opportunities for small producers and retailers. It has possibly resulted in the unintended outcome of supporting economic development within the state and promoting diversity in the industries. (WA wine producers [1 group]) | <p>28. The level playing field strategy has supported industry growth and diversity in Washington, but it is time to allow for a free-market approach. Everyone needs to learn how to compete in the market. (WA wine producers; large retailer; legislators; specialty retailers; independent wholesalers)</p> <p>29. The level playing field strategy has supported industry growth and diversity in Washington, but the regulations have gone too far. They are too restrictive, too</p> | <p>22. Limit controls to misuse of alcohol, not restraints on free trade. (large retailers; WA wine producers; WA brewer; specialty retailers; on-premises licensees)</p> <p>23. Revise rules to what is actually practical to enforce with the resources available. If not able to enforce consistently, don't have a regulation that restricts business. (WA brewer; WA wine producers; specialty retailers; on-premises licensees)</p> |

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| <p>24. The level playing field strategy has allowed small and specialty retailers to thrive. Without it, small retailers and specialty would be out of business. (specialty retailer; legislator; wholesale association; independent wholesaler; small retailers)</p> <p>25. It was easier to start a small business under current system. (specialty retailer)</p> | <p>inflexible. More free market influences should be allowed. (WA wine producers [1 group]; WA brewers; large retailers; specialty shops)</p> <p>30. Washington has the variety of product and vibrant craft beer and fine wine industry because of the quality of products and business acumen. The current regulations have not necessarily been the cause of diversity in the market. The notion of the level playing field helping small guys is a “red herring” from wholesalers lobby to discourage independent distributors and to scare small producers and retailers. (WA wine producers [1 group], specialty retailers)</p> <p>31. The playing field is not currently level. The LCB does not play by the rules – they have an advantage. Others circumvent the rules. Small players are competing already on an un-level playing field and managing fine. Give up the concept. (specialty retailers; WA brewer)</p> | <p>24. Market interference by the state needs to result in public benefit. (consumer)</p> |
| ENFORCEMENT | | |
| <p>26. Enforcement and education are generally done well (though not enough resources). (large retailers; prevention/treatment; WA wine producers)</p> <p>27. The current enforcement system facilitates efficient enforcement and detection of violations. (on-premises</p> | <p>32. The LCB gives inconsistent answers on the interpretation of rules and statutes. (WA wine producers; specialty retailers)</p> <p>33. LCB MIW compliance division seems to be there to hinder, not help. If they don’t know the answer to a question, the default response is “you can’t do it.” The divisions within LCB are not always in</p> | <p>25. The “10-cents a drink” proposal could fund increased enforcement. (prevention/treatment member)</p> <p>26. Add significant resources for enforcement. (prevention/treatment)</p> <p>27. Focus on critical issues – misuse of the product. (WA wine producers, specialty retailers, on-premises licensees)</p> |

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| <p>licensees)</p> <p>28. The state's current enforcement efforts support a perception of safety and control. (prevention/treatment)</p> <p>29. The LCB is generally helpful in providing advice to navigate through the system. (WA wine producers [1 group])</p> <p>30. The recent change in rules to allow internal stings for on-premises establishments is an indication of where the LCB has tried to help business owners comply with laws. This practice allows businesses to monitor their own staff to ensure they are following the rules correctly, without fear of repercussions. (on-premises licensees)</p> <p>31. Enforcement cannot be done with physical presence of enforcement officers alone. The regulations need to enforce the ultimate goals as well (i.e., pricing policies). (prevention/treatment member; wholesalers association)</p> <p>32. Distributors help enforce compliance of regulations. (wholesalers association)</p> | <p>agreement about the answers to questions or interpretation of the regulations/statutes. (WA wine producers)</p> <p>34. There is little proportionality in enforcement. Small infractions are treated as harshly as major infractions. Enforcement is still focused on issues that are no longer particularly relevant. (WA brewers)</p> <p>35. The state does not have sufficient resources to put the necessary number of enforcement officers in the field. The number of enforcement officers is particularly sparse in rural areas. (wholesalers association; prevention/treatment member; WA wine producers; specialty retailers; large retailers; independent wholesalers)</p> <p>36. The more regulations there are and the more complex, the more enforcement is needed. With limited resources, the state should focus on the controls that matter – misuse of alcohol. (WA wine producers, specialty retailers, on-premises licensees)</p> <p>37. The regulations currently in place are not vigorously enforced. There are many businesses not playing by the rules. This creates an un-level playing field for the businesses that are trying to play by the rules. It would be better to have no regulation, than to have regulations that</p> | <p>28. Can always increase taxes to control prices which also increases revenue to the state. (prevention/treatment, large retailers, on-premises licensees)</p> <p>29. Develop criteria/lens for interpreting regulations. (other brewer; WA wine producers; specialty retailers)</p> <p>30. Expand enforcement of alcohol regulations on/near college campuses. (prevention/treatment)</p> |
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| | <p>are not consistently enforced. (WA brewer; specialty retailer)</p> <p>38. Enforcement of underage drinking laws on college campuses is becoming too lax. Enforcement should be expanded in this area. (prevention / treatment)</p> | |
| SPECIFIC REGULATIONS – Ban on Quantity Discounts | | |
| <p>33. Ban on quantity discounts assists small retailers to get the same price as large retailers and therefore levels the playing field. (specialty retailer)</p> <p>34. Quantity discounts may result in bulk buying of one brand, and therefore less diversity in the market. (wholesalers association)</p> <p>35. Ban on volume discounts levels the playing field. If this rule is eliminated, many small producers, some independent wholesalers and retailers would go out of business. Choice (diversity in product) is what the industry is all about and anything that reduces that is a detriment. (specialty retailer; some WA wine producers; WA brewers; some independent wholesalers)</p> <p>36. The current system with no quantity discounts works well. (wholesalers association; independent wholesaler; small retailers)</p> | <p>39. Ban on quantity discounts is inequitable to the larger retailer and wouldn't necessarily hurt the specialty retailer. (large retailers; on-premises licensees; specialty retailer)</p> <p>40. The larger retailer is in essence subsidizing the smaller retailer by not allowing quantity discounts. It costs more to deliver two or three bottles to a small retailer. (large retailers; on-premises licensees)</p> <p>41. Volume discounts already exist, but they are masked. Workarounds have developed that have the same end result. Since they often already exist, just make it allowable. (specialty retailers)</p> <p>42. Specialty retailers will continue to exist regardless of opening up price restrictions. There is a different niche for specialty retailers and diversity will continue to exist. (specialty retailers; WA wine producers; WA brewers; independent wholesalers)</p> <p>43. If quantity discounts are allowed, there will still need to be rules around what</p> | <p>31. Producers should be able to negotiate prices and where they want their product sold. (WA wine producers; specialty retailers; on-premises licensees; independent wholesalers)</p> <p>32. Quantity discounts should be allowed. (large retailers; on-premises licensees; specialty retailers; WA wine producers; independent wholesalers)</p> <p>33. In one state they allow quantity discounts, but the discount must be the same to all retailers. That way the concept of fairness is intact, but the business impact is reduced. (WA brewer)</p> <p>34. If quantity discounts are allowed, small retailers should have the ability to create cooperative central warehouses so they can take advantage of the volume discounts as well. (small retailers)</p> |

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| | can and cannot be done. Will likely result in even more complexity to the system. (wholesalers association). | |
| SPECIFIC REGULATIONS – Pricing Policies (post & hold, uniform pricing, etc.) | | |
| <p>37. Price controls help regulate misuse of alcohol. (prevention/treatment)</p> <p>38. The current system works well and any changes should be made within the current mechanisms. (wholesalers association)</p> <p>39. Uniform pricing provides a level playing field for small retailers. Big box stores receive no price advantage. (specialty retailer; small wine supplier; WA brewers; small retailers)</p> <p>40. Price posting provides useful market information to the supplier. (1 WA brewer; 1 specialty retailer)</p> | <p>44. Trying to link the rules between controlling prices with illegal sale or consumption of alcohol doesn't make sense. Price control is more of an economic development support to small producers and retailers. (legislator; specialty retailer; WA brewers; WA wine producers)</p> <p>45. Chronic inebriation is related to alcohol at the lowest end of the price scale. There are many ways to address this issue other than the mechanisms currently in place (for example, set a price floor.) (large retailers)</p> <p>46. Price posting is time-consuming and restrictive. Hard to change mistakes and penalties for inadvertent violations (i.e. errors in data entry) are overly harsh. (specialty shops; WA wine producers; WA brewers; large retailers)</p> <p>47. The rules around price posting and post-and-hold rules make it difficult or impossible to take advantage of market conditions; they are too inflexible. Too long of a time period to post ahead. Restrictive to importers who are unwilling to deal with the "mess." (WA</p> | <p>35. Eliminate all pricing policies. (on-premises licensees; most WA wine producers)</p> <p>36. Eliminate price posting. (most WA wine producers; specialty retailers; large retailers; independent wholesalers)</p> <p>37. If price-posting is continued, make it more flexible and easy (for example, Oregon allows price posting for one day.) (WA wine producers; independent wholesalers)</p> <p>38. If the state believes that price influences consumption, it should raise taxes to increase the price of beer and wine. This would get to the same end of raising prices, but provides increased revenue to the state that could be used for education and enforcement, rather than increased revenue to the business. (large retailers; WA brewers; independent wholesalers)</p> <p>39. In today's environment, where markups are much higher than 10%, the minimum markup could be eliminated and there would be no impact. (large retailers, WA wine producers; WA brewers; wholesalers)</p> |

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| | <p>wine producers; large retailers; specialty retailers; independent wholesalers)</p> <p>48. Nothing seems to be done with the information gathered in price posting. The state does not seem to use the information, and it provides no value to the industry. In today's electronic age, we can capture prices we need electronically. (large retailers)</p> <p>49. Price posting is anticompetitive, antiquated and restricts business in being able to respond to market opportunities. It can take 60 to 90 days to respond to potential opportunities or to fix errors. (on-premises licensees; specialty retailers; large retailers; independent wholesalers)</p> <p>50. Price posting keeps quality products out of Washington because suppliers don't want to go through the hassle of doing business here. (specialty retailers)</p> <p>51. The requirements that all entities are charged the same price for a product puts a greater burden on larger, more centrally located businesses to make up for the higher expense of providing product to smaller, more distant businesses. Businesses should be allowed to negotiate their prices. (on-premises licensees)</p> <p>52. The minimum markup is no longer relevant. The markup is generally more than 10% anyway. (large retailers, WA wine producers; WA brewers;</p> | <p>association; independent wholesalers)</p> <p>40. Pricing policies need to demonstrate the benefit to the public. (consumer)</p> |
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| | <p>wholesalers association; CA wineries; independent wholesalers)</p> <p>53. Businesses should be allowed to negotiate their prices with their customers like any other industry. (independent wholesalers)</p> | |
| SPECIFIC REGULATIONS – Money’s Worth (including Ban on Joint Advertising) | | |
| <p>41. Giving value to a retailer can influence the relationship. This ban should continue to avoid undue influence in a relationship. (WA brewers)</p> <p>42. There are no changes needed outside of the current mechanism. (wholesalers association)</p> | <p>54. Regulations against joint advertising are complex and can have conflicting and unreasonable results. (WA wine producers; WA brewers; on-premises licensees)</p> <p>55. Advertising rules in general are not completely meeting the needs of separating advertising to adults and advertising to underage drinkers, and other social marketing issues. (prevention/treatment)</p> <p>56. Money’s worth and advertising rules are violated daily, in part because there are insufficient resources devoted to enforcement; in part because the rules are complex and easy to violate inadvertently; and partly because agency staff are unwilling to give opinions about whether a contemplated practice is a violation. (WA brewers; specialty retailers; WA wine producers)</p> <p>57. There is inconsistent application of regulations. Example: a producer can deliver a truckload of their product to</p> | <p>41. If the state is going to regulate, then enforce. But spend time on the rules that matter – that prevent misuse of alcohol, not the “silly” stuff. (specialty stores; WA wine producers)</p> <p>42. Joint and cooperative advertising should be allowed. (specialty retailers, WA wine producers; on-site premise licensees; sports/entertainment)</p> <p>43. State rules should not restrict advertising or “money’s worth” any more than the Federal regulations. (sports/entertainment)</p> <p>44. Allow practices that don’t do harm (misuse of product) and don’t allow any “other” money’s worth provisions (like okay to give away sporting event tickets or gift certificates) to bring it all above board. All part of negotiation on prices – not special deals in one hand to off-set the prohibition against price negotiations. (on-premises licensees)</p> <p>45. Ensure the impacts on youth, direct or indirect (environmental influences) are</p> |

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| | <p>the retailer – and that’s not “value add,” but the same producer cannot ship their product to the retailer with a common carrier because paying the shipping costs would be “value add” (or charging for shipping would then violate the posted price). (specialty retailers; on-premises licensees; WA wine producers)</p> <p>58. Sports and entertainment facilities are unique. They compete at a national level, and funding for the construction and operation of these facilities is complex. Regulations prohibiting joint advertising, particularly naming rights, are overly restrictive and detrimental to these facilities. Other states allow similar facilities to enter into these types of agreements and limits on Washington facilities places these facilities at a financial disadvantage. (sports/entertainment)</p> <p>59. Joint advertising rules are taken to an illogical extreme. A retailer can include on its web site information about a winery, but can’t include a live link. Another example: Wine makers can come to a wine tasting, but can’t pour their own wine or sign the label because that would be considered “money’s worth”. (specialty retailers; WA wine producers)</p> <p>60. The prohibition on providing money or money’s worth is not policed, and many</p> | <p>always considered when developing, changing, interpreting and enforcing regulations. (prevention/treatment)</p> <p>46. Conduct a survey of other states and what advertising and “money’s worth” practices are prohibited. (sports/entertainment)</p> <p>47. If rules are relaxed to allow the producer or distributor tier to assist in customer tastings, there may be a need to license that activity and provide training. (independent wholesalers)</p> |
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| | <p>are not complying with the laws. This creates an uneven playing field. (WA brewer; specialty retailers)</p> <p>61. Advertising generally impacts societal norms. If a child walks down the street and sees store windows covered in alcohol advertising, and beer and wine sold on every street corner, the child is socialized to believe that drinking is cool, or the thing to do. (prevention/treatment)</p> <p>62. Wholesalers are “allowed” to provide limited services to grocers such as restocking shelves, but not allowed to provide services to specialty shop owners (such as pouring wine at tastings.) Small specialty retailers don’t want the merchandising services, but they would like education and tasting help. The business entities should be able to provide services to their customers depending on what is needed. (independent wholesalers)</p> | |
| SPECIFIC REGULATIONS – Ban on Central Warehousing | | |
| 43. There are no changes needed outside of the current mechanism. (wholesalers association; small retailers) | 63. The ban on central warehousing is an obstacle to direct shipment. The fee structure of interstate commerce using a common carrier makes small deliveries cost prohibitive. So if a carrier has to deliver to every store, it is too expensive to do and the retailer has to use a distributor. If they could ship to a central | <p>48. Allow central warehousing. (large retailers; WA brewers; CA wineries; independent wholesalers)</p> <p>49. Allowing central warehousing could assist in tax collection efforts associated with direct shipment since you could assume that taxation would occur at the first holder – the warehouse – rather</p> |

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| | <p>warehouse, they could then use their own trucks to deliver out to individual stores. (large retailers; CA wineries)</p> <p>64. The prohibition on central warehousing serves to protect the distribution tier. If it were removed, the producer could deliver to a central warehouse and the retailer could do the work of the distributor using the margin that would have gone to the distributor. (WA brewer)</p> <p>65. Central warehousing would be more efficient for distributors, and better serves their clients. Removing this restriction would allow the market to determine what is the most efficient means of getting the product to the customer. (independent wholesalers)</p> | <p>than each individual store. (large retailer)</p> <p>50. If central warehousing is allowed, small retailers should have the ability to create coops to take advantage of the efficiencies. (small retailers)</p> |
| <p>• SPECIFIC REGULATIONS – Cash on Delivery (COD)</p> | | |
| <p>44. Requirement for COD for retailers is not necessarily bad. Helps some smaller retailers from getting overextended. It would also be difficult for some small producers to extend credit. (small brewer; wholesaler association, independent wholesalers)</p> <p>45. COD ensures taxes are always collected. If credit is allowed and someone defaulted, the state would lose the tax revenue that was uncollected. (wholesalers association)</p> <p>46. It would cost distributors a lot of money</p> | <p>66. COD is antiquated. It should be the decision of the retailer and the distributor about whether credit should be extended and whether an entity presents a good credit risk. No other product is required to be COD today, and the LCB doesn't even adhere to this rule. (large retailers; specialty retailers; WA wine producers; WA breweries; on-premises licensees; independent wholesalers)</p> <p>67. COD regulations require that retailer must have substantial sums of money</p> | <p>51. If the prohibition against extending credit is lifted, look at ways other states provide protection against bad credit. For example, in Texas, if a debt is not paid in 30 days, the Alcohol Control agency blacklists the entity. (WA wine producers [1 group]; independent wholesalers)</p> <p>52. Allow ability to extend credit. (larger retailers; specialty retailers; most WA wine producers; on-premises licensees; WA brewer)</p> <p>53. If credit is allowed, put small maximum</p> |

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| <p>if they were pressured to extend credit to their customers. Also would be more likely extended to bigger retailers and would be a disadvantage to smaller retailers. (wholesalers association)</p> <p>47. If credit is allowed, the cost of the product will actually increase because the producer will need to hire staff for accounts receivable, cover bad debts, etc. (WA brewers; WA wine producers [1 group]; independent wholesalers)</p> <p>48. Wholesalers should not be in the credit business – they may end up propping up a bad actor because they don't want to be the bad guy by reporting out-of-compliance retailers to the regulating entity. (wholesalers association; independent wholesaler)</p> <p>49. COD regulation is a safety net, and reduces overhead - no staff needed to track accounts receivable, no bad debt. (WA wine producers; independent wholesalers)</p> <p>50. Economic burden on small operators of allowing credit will result in less diversity in the marketplace because some will go out of business. However, if other cumbersome practices are lifted, may free up time to handle credit. (independent wholesalers)</p> | <p>tied up in deposits with warehouses and manufacturers. (on-premises licensees)</p> <p>68. Wholesalers benefit from the continuation of the COD requirement. They receive cash, but are allowed to get their product on credit. (WA wine producers; specialty retailers)</p> <p>69. Credit would allow more small retailers to get into the business and promote more diversity. (specialty retailers; independent wholesalers)</p> | <p>allowable timeframes, such as 7-15 days. (independent wholesalers)</p> |
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| SPECIFIC REGULATIONS – Prohibition on Slotting Fees | | |
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| 51. Prohibition on slotting fees (paying for retail shelf space) is necessary. If this were allowed, many smaller producers would not be able to compete for shelf space. Smaller producers could not “pay to play” and as a result larger producers would dominate the retail space. (WA wine producers, wholesalers association) | | |
| SPECIFIC REGULATIONS – Allowing Self-Distribution | | |
| 52. Legislature provided funding to implement the direct shipment bill; this funding will be used to establish a regulatory framework. (LCB) | 70. Requirements in the self-distribution bill passed in 2006 related to the use of common carriers render the statute ineffective. Producers can’t use common carriers, can’t drop at multiple locations without large fees, etc. (large retailers; WA wine producers; specialty retailers) | 54. Should be allowed to ship with a common carrier from producer and either charge postage or don’t, but up to producer. (WA wine producers; large retailers; specialty retailers) |
| 53. Self-distribution is a business strategy used by many small, start-up and established producers. (WA wine producers) | 71. Distributors act as quasi-regulators in the enforcement system. Self-distribution by out-of-state wineries may increase the cost to the state of enforcement and tax collection. Out-of-state shippers may not know or follow Washington law. (wholesalers association; independent wholesalers) | 55. Retailers should be able to distribute. Let the marketplace determine the most efficient distribution market. (on-premises licensees) |
| 54. The self-distribution bill was a carefully crafted compromise that corrected discriminatory and anticompetitive aspects of the system. It was a response to a Supreme Court decision and needs to remain in place beyond the sunset date. (CA wineries) | 72. Allowing out-of-state producers to self-distribute will impact the state’s ability to carefully track and monitor sales and tax collection since this has traditionally been done by the distributor. (wholesalers association; independent | 56. Measures need to be put in place to determine the impact of self-distribution by out-of-state producers. (LCB) |
| 55. Distributors provide a very efficient service for a highly regulated product, including tax collection. It is so efficient it seems that it is not necessary. (wholesalers association) | | 57. Foreign importers should be allowed to self-distribute. (specialty retailer) |
| 56. There are several ways to enforce out-of- | | 58. Allow time to experience the new regulations (2SSB - 6823) and identify measures to determine if self-distribution and direct distribution has been successful, i.e., did customers get what they want? Has proper paperwork |

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| <p>state producers to comply with Washington's regulations even when the product is self-distributed. For example, federal statutes provide enforcement avenues through the ATF, the new statute requires the out-of-state entity to submit to local jurisdiction so they can be brought into court and the state can ask for reciprocal enforcement in the entity's home state. (CA wineries)</p> <p>57. Reporting and licensing requirements from both producers and retailers will provide a cross-reference to ensure tax revenue is identified and collected. (CA wineries)</p> <p>58. Out-of-state self-distribution will probably not be highly utilized by producers. Will probably be more useful to WA retailers who want the product or have special requests for it from customers. It will be an option to provide better customer service. (CA wineries)</p> | <p>wholesalers)</p> <p>73. Foreign importers were left out of 6823. They should also be allowed to self-distribute. (specialty retailers)</p> <p>74. Self-distribution of out-of-state products is the first step toward losing a system that emphasizes a local connection. Without a local distributor as the first point of entry for product, it is difficult to expect a local government agency to be able to enforce compliance by out-of-state bad actors. (other brewer)</p> <p>75. Out-of-state self-distribution is a good provision. It allows more variety of product for the consumer and avoids discrimination against non-Washington producers. (CA wineries)</p> | <p>been filed? Has revenue been appropriately collected? Has the licensing process served to control the flow? (CA wineries)</p> <p>59. Shifting the volume tax to be collected at retail level could eliminate the issue with having to collect taxes from out-of-state producers. (independent wholesalers)</p> |
| OTHER REGULATIONS | | |
| | <p>76. The state sees returning damaged or spoiled goods as a consignment issue (which is prohibited by federal law.) But a retailer should be able to return damaged or spoiled goods to the wholesaler with a reasonable period of time (say 8 days.). (large retailers;</p> | <p>60. Allow the return of damaged or spoiled goods within reasonable timeframes. (large retailers; independent wholesalers)</p> <p>61. Rules should allow transferring product between locations. (large retailers)</p> <p>62. Retailers should be allowed to return</p> |

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| | <p>independent wholesalers)</p> <p>77. The regulation of the producer/distributor relationship is uneven. A producer cannot simply move his or her business to another distributor if unhappy with the service. There is a significant process that must be followed. However a distributor can drop a manufacturer, or sell the manufacturer's brand to another distributor, at will. (WA brewers)</p> | <p>product they cannot sell. (independent wholesalers)</p> |
| GENERAL | | |
| <p>59. There has not been a public outcry about the rules being too harsh or alcohol being too expensive. The demand for change seems to be driven by monetary interests in the industry. (LCB; wholesalers association)</p> <p>60. The system produces a wide selection of products, healthy business and innovation by providing a level playing field for small, medium and large producers and retailers. (wholesalers association)</p> <p>61. Changing the system will not mean chaos – the state will still have a role in regulating the distribution and sale. (specialty retailer)</p> <p>62. The LCB has been a good partner in addressing prevention and treatment issues through its education and training activities. (prevention / treatment)</p> | <p>78. The LCB has not seemed to be open to changes. The board and staff are entrenched in their position when concerns are raised. (large retailer)</p> <p>79. The state lacks metrics to measure the impacts of the system, and the LCB lacks funding/capacity to develop them. (LCB)</p> <p>80. The current method of funding the LCB (appropriated, vs. non-appropriated) is an inhibitor to the current system. (LCB)</p> <p>81. The board adopts a wide array of policies that do not go through a formal rule making process. These need to be more transparent, and given broader viewing before they are adopted. (on-premises licensees)</p> | <p>63. Develop metrics to measure the impact of the system and system changes. (LCB; specialty retailers; prevention/treatment)</p> <p>64. Considerations for change must include how changes may interact with each other and try to avoid unintended consequences. (WA wine producers; wholesalers association)</p> <p>65. Policy changes should be done one by one, and measured to determine their impact individually and in combination. (WA brewer)</p> <p>66. The LCB should study and use the research related to the environmental factors associated with alcohol. (prevention / treatment)</p> <p>67. Measuring the effect of one policy or regulation by itself may not reveal a strong correlation between the policy</p> |

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| <p>63. The LCB's audit system is good. (WA wine producers)</p> <p>64. The LCB's training for servers and convenience store staff are well done, but the training is insufficient. The LCB's education staff is a welcome addition. (prevention/treatment)</p> <p>65. Washington is unique in that it has a whole functioning system in place. The challenge is to keep it from becoming bureaucratic, rigid and too rooted in the past. (out-of-state brewer)</p> <p>66. The licensing and regulatory system allows the state to know who is bringing product into the state and how it moves around. Technology allows this to be accomplished more efficiently and to adapt to today's environment. There is no problem with this. Concerns arise around trade practices within the industry. (WA wineries)</p> <p>67. The full-time LCB position for education and outreach is very positive. (prevention/treatment)</p> | | <p>and the intended outcome. It is important to take a multi-pronged approach and measure the effects of the system of policies. (prevention/treatment)</p> <p>68. The state has recently adopted two major changes to the system (self-distribution and direct sales to customers). The focus should be on making these effective rather than expanding the list of changes. (CA wineries)</p> <p>69. Gallonage tax should be imposed at the point that wine is sold – the end user. (independent wholesalers)</p> |
| STATE POLICY GOALS | | |
| <p>68. If the existing protections go away, there will be a shift from small, diverse producer and retail industries to large producers and retailers. The state will lose both businesses (small producers and retailers) and diversity of product. (specialty retailer)</p> | <p>82. Many of the rules no longer support the current value set (policy goals) of the state. (specialty retailer)</p> <p>83. State actions are sometimes at odds with state policy goals. For example, the state regulatory system is designed to promote moderation and discourage alcohol</p> | <p>70. Confirm or revise the value set (policy goals) that the state is trying to accomplish, and develop the rules accordingly. Confirm again what the state is trying to protect against, and if the same influences exist today. (WA wine producers; large retailers; specialty</p> |

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| <p>69. The current system helps the LCB meet its responsibility for tax collection and uniform pricing. (LCB)</p> <p>70. The LCB and the state's regulatory system help support efforts to address chronic public intoxication. (prevention/treatment)</p> <p>71. The LCB's mission statement says its' mission is to prohibit access to minors and to prohibit over-consumption. These are appropriate roles for the state to pursue. (on-premises licensees)</p> <p>72. Orderly market is an important goal. It is the opposite of unregulated, laissez-faire market. Have to have order to guard against abuse and to efficiently collect taxes. The orderly market concept is a compendium of all the regulations that link to misuse and tax collection. (wholesalers association)</p> | <p>abuse. The LCB has touted itself as the "guardians of temperance." However, the LCB has aggressive plans to market wines, the legislature promotes the wine industry in a variety of ways and the LCB often sells wine cheaper than other private retailers. (specialty retailers)</p> <p>84. The court says (and no one really disagrees) current system is anticompetitive. (LCB)</p> <p>85. Temperance or the societal relationship to alcohol is a result of societal attitudes and those should be addressed at home. It is paternalistic to think the state should be regulating moderation. (large retailers; WA brewer)</p> <p>86. Supporting diversity of products, supporting local employment and businesses and supporting small producers and retailers should be an explicit mission of the LCB. (WA wine producers; WA brewers; specialty retailers; wholesalers association)</p> <p>87. There is a natural conflict when a regulator is also in the business. Although the LCB does a good job of balancing both, need to consider if it should be in both businesses. (prevention/treatment member)</p> <p>88. The board is in a difficult position as both a regulator and enforcement agency. This opens the door to bias (both good and bad). If a licensee has</p> | <p>retailers; legislator)</p> <p>71. Redirect regulatory focus to control and policies that directly impact public safety rather than trade practices. (WA wine producers; on-premises licensees; specialty retailers)</p> <p>72. The discussion must center on the state's values. What does the state value? Maintaining diversity in both products and business types? Not increasing alcohol consumption? (specialty retailer)</p> <p>73. The state's policy goals should focus on regulating to reduce underage drinking and to reduce over-consumption, and should not include "leveling the playing field." The state should not be regulating the economics of the industry except to the extent that it affects safety. (on-premises licensees; specialty retailers; large retailers)</p> <p>74. Err on the side of less regulation. Activity should be allowed unless it is explicitly prohibited. (WA wine producers; on-site premise licensees; specialty retailers)</p> <p>75. The state's goals / priorities should specifically address keeping kids safe, and all actions related to the regulation of alcohol should be filtered through that goal. (prevention/treatment)</p> <p>76. The LCB's authorizing statute should</p> |
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| | <p>worked closely with the LCB during the licensing process, the staff has formed an opinion of the licensee and that opinion may color how they will treat that licensee in an enforcement situation. (WA brewer)</p> | <p>clearly state its mission. Right now it is focused exclusively on the police power. This needs to be more balanced. (WA wine producer)</p> <p>77. Consider making changes with expiration dates or sunset clauses and requires the Joint Legislative Audit and Review Committee (JLARC) to conduct a review of the impact of any changes made at a predetermined point in the future. (consumer)</p> |
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Potential Criteria for Future Rules

1. The rules should support the policy goals of the state, not special interest groups (should focus on public benefit not protecting market share of any business involved.)
2. Use rules to prohibit undesirable practices that are *known (not thought)* to cause undesirable outcomes (harm to the public interest), not to constrain the market
3. Controls should be structured to achieve goals with the least business restrictions
4. Focus rules on public safety rather than trade practices
5. Consider public safety, particularly impacts on youth
6. Consider the impact on consumer choice and demand
7. Equitable among tiers
8. Practical
9. Enforceable
10. Less restrictive (only restrict as legitimately pertains to misuse or tax collection)
11. Don't need to promote, but don't work against the industry
12. Identify the intent
13. Do not circumvent the intent of one regulation with another, or within the regulation

14. Simple / User friendly
15. Easy to understand (plain English)
16. Reduce paperwork; simplified and automated reporting
17. Don't assume irresponsible behavior is the goal of the industry
18. Consider whether the state regulation needs to be more restrictive than the federal rule – don't automatically make it more restrictive
19. Flexible enough to more easily accommodate continued change; don't pin down business practices
20. Must support accountability
21. Potential for corruption must be addressed
22. Should not allow requirements that have discriminatory effect on out-of-state businesses

Other comments

1. LCB's interpretation of rules seems to be getting more restrictive. Practices that were okay at one time, are now bad. Although the legislature seems to be supporting the industry through their changes and financial support, the LCB has a contrary agenda of constricting business practices and working against the industry.
2. California rules are a mess too. Ultimately less restrictive, but they have modified rules and made exceptions over time, layering rules. It's why we need to start over rather than try to revise.
3. Current environment has changed.
 - a. More sophisticated consumers, very competitive markets at every tier – way too competitive for organized crime. Consumers would not settle for less than very broad choice. WA wine only accounts for 20% of Washington wine sales. That tells us consumers want more choice than we can even give them with WA wines. Wine is one of the most competitive commodities in a grocery store – literally thousands of brands. What other product is that diverse?
 - b. More orderly. The laws are complex, but the basics are generally followed and enforced (i.e., not selling to minors). Laws were either not in place or not followed before 1933. There doesn't seem to be "rogues" in any tier – people intent on circumventing the major rules that protect the public interest. Doesn't mean all laws should go away, just simplified. Where there are proven problems, address with special rules (like high use/impact zones). Society has evolved. All of the arcane laws are no longer necessary.

- c. New economy. It's more than just production and retail, it involves tourism and new models such as tasting rooms. New ways of doing business that the current (old) rules didn't envision.
4. Current environment has changed, but youth are still very vulnerable.
5. Big difference between beer and wine distributors. Large beer producers have more influence over beer distributors.
6. Washington is on the cutting edge, so it's hard to compare to other states – even other wine-producing states.
7. Concerned about the laissez-faire attitude that there is no evil out there anymore related to alcohol. If too many rules are taken away, Washington may experience some bad consequences. There is still a potential for corruption.
8. Changing laws can change norms over time. Strong enforcement of laws also sends societal signals to the population about what society will and will not accept.

States that may be good for research:

- OR and MT seem to have better price posting.
- OR, ID, IL allows in-store (grocery) wine tasting.
- OR allows for central warehousing of wine.
- NE, Delaware, Colorado have removed price posting.
- The tobacco industry has a good approach to recording taxation.
- OR is overtly supportive of the brewing industry – its charter specifically directs the agency to give attention to small producers.
- TX stores often focus on a single manufacturer's brands; also require blacklist of retailers who don't pay on deadlines.
- AK has quantity discounts.
- WY, NH have allowed self-distribution for some time.
- CA generally has less restrictive practices. Offers credit.
- MN and CO seem to be similar to Washington for comparative purposes. Not NH or UT which are outside the norm due to strong promotion of spirits for tax revenue (NH) and very conservative population (UT)

Interviews represented in this document and number attending

GROUPS

Liquor Control Board members, administrative director and key staff (9)

WA brewers – small and large (4)

WA wine producers – small and large (11)

Washington Beer & Wine Wholesalers Association (22)

Independent wholesalers (9)

Sports and entertainment facilities (8)

Large retailers (WFI and independents) (9)

Specialty retailers (8)

On-premises licensees (5)

Prevention / treatment (4)

Small retailers (3)

TASK FORCE MEMBERS

Legislators (3)

Large retailer (2)

WA wine producer (1)

WA brewer (1)

Out-of-state wineries (1 TF member and one additional)

Out-of-state beer manufacturer (1)

Specialty retailer (1)

Prevention/treatment – local law enforcement (2)
Prevention/treatment - local government (1)
Washington Beer & Wine Wholesalers association (1)
Prevention / treatment - Governor's Office (1)
Prevention / treatment – community organization (1)
Consumer (1)
On-premises retailer (1)
LCB (1)

OTHER INDIVIDUAL INTERVIEWS:

Senate committee staff (1)
Washington Wine Commission (1)
Legislator/specialty retailer (1)

Appendix F

Task Force Potential Change Item Prioritization

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Appendix F

Task Force Potential Change Item Prioritization

25 potential change items were identified through group and individual interviews with over 100 stakeholders, including Task Force members. Because the Task Force was limited in the time available to develop recommendations, it was necessary to prioritize these change items to determine the order in which items would be addressed. The Task Force was then prepared to take up as many of the issues as time would allow.

Each Task Force member was given the opportunity to vote for his or her five each high, medium and low priorities. They were also given the opportunity to vote “no” to indicate those items they definitely did not want to address (for a potential total of 20 votes per member.) After each member voted, the prioritization results were weighted as follows: high priority (3), medium priority (2), low priority (1), and No (-3), and an average score was produced for each item. The results of the prioritization process are provided below:

| Control and enforcement | | | | | | |
|--------------------------|-----------------------------------|------|-----|-----|-----|-------|
| Item | Issue | High | Med | Low | NO | Ave. |
| 7b | LCB in Competition | 9 | 10 | 4 | 0 | 5.75 |
| 6d | Lack of Enforcement Resources | 18 | 2 | 2 | -3 | 4.75 |
| 6f | Lack of Impact Measures | 18 | 2 | 1 | -6 | 3.75 |
| 6a | Criteria for regulations | 9 | 8 | 3 | -6 | 3.5 |
| 7a | Rules for LCB retailing | 3 | 8 | 4 | -3 | 3 |
| 6c | Priority of Enforcement Resources | 9 | 4 | 2 | -6 | 2.25 |
| 6g | Complexity of rules | 3 | 2 | 4 | -6 | 0.75 |
| 6e | Paperwork | 0 | 6 | 4 | -9 | 0.25 |
| Sales and distribution | | | | | | |
| Item | Issue | High | Med | Low | NO | Ave. |
| 4b | Price Posting | 24 | 0 | 2 | -9 | 4.25 |
| 4c | Mandatory Mark-up | 9 | 10 | 1 | -6 | 3.5 |
| 4d | Quantity Discounts | 15 | 8 | 0 | -15 | 2 |
| 5f | Central Warehousing | 3 | 12 | 2 | -9 | 2 |
| 5g | Product Placement | 9 | 2 | 3 | -15 | -0.25 |
| 4e | Delivered Pricing Total | 0 | 4 | 5 | -12 | -0.75 |
| 5c | Foreign Imports | 0 | 4 | 1 | -9 | -1 |
| 4f | COD | 6 | 4 | 3 | -18 | -1.25 |
| 4a | Uniform Pricing | 9 | 4 | 1 | -21 | -1.75 |
| 3c | Return of damaged | 0 | 4 | 2 | -15 | -2.25 |
| Relationship among tiers | | | | | | |
| Item | Issue | High | Med | Low | NO | Ave. |
| 5a | Mandatory Use of Distributors | 18 | 6 | 2 | -12 | 3.5 |
| 3a | Money's Worth | 12 | 6 | 3 | -12 | 2.25 |
| 3b | Ownership | 9 | 4 | 2 | -12 | 0.75 |
| 5e | Sampling | 9 | 0 | 3 | -18 | -1.5 |
| 5d | Retail-Retail | 6 | 2 | 1 | -15 | -1.5 |
| 2 | Anti-Competition | 6 | 6 | 1 | -21 | -2 |
| 1 | Advertising | 0 | 10 | 2 | -21 | -2.25 |

The **purpose of this survey** is to get an understanding of which issues are of highest priority for Task Force members and to solicit information that will help inform discussions and decisions. The results will be used to help prioritize the work of the Task Force.

There is a brief description of the intent of the regulation on each item as provided by the LCB. If you want more information we have provided a document with the relevant regulations. (Regulations.current for potential change.v.1.doc) Please remember however, that you are not yet determining *how* or even *IF* the regulation will be recommended for change, but whether it should move forward for consideration, keeping in mind the timeframe available to the Task Force.

INSTRUCTIONS: For each item, fill out the appropriate boxes. Electronically, put your cursor over the box and left-click on ONE box for each question to check the box for your preference. [HINT: The text is locked to allow only the checking of a box or inserting text into comment areas. If you hit your “tab” button, it will take you to the next area that is editable.]

If you indicate “YES” that an item should be considered for change/further discussion you will be asked for your priority on most items. **Please try to limit “High” priorities to 5 items or fewer, and “Medium” to 5 items or fewer.** This will help us organize the list for prioritizing by votes later. Low priorities will not necessarily fall off the list. If everyone answers “NO” an item should not be considered for change on any item, those items will be finalized in a vote, but would not be considered further if that is the agreement of the Task Force.

In the appropriate comment areas (light blue shaded), put your curser in the blue area and type. Please keep your response brief (*We* have to compile them all and *you* have to read them all.) If the reasons have been previously discussed in the group, a very brief response will help reference the previous discussion so a detailed response is not necessary.

Please include your name here.

Task Force Member Name:

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1. Advertising regulations

Reference for current law/rule/practice: RCW 66.08.060; WAC 314-52; 314-11-085; 314-18-040(8); LCB Policy #1-02; LCB Policy #__ [Advertising v. Information for the Purpose of Determining the Extension of Money's Worth]; LCB Policy #1-05; 27 CFR 4.65; 27 CFR 6; 27 CFR 7.55

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): RCW 66.08.060 authorizes LCB to adopt reasonable regulations as to the kind, character and location of advertising of liquor. Two purposes: (1) consumer protection, (2) tied house statute compliance.

In the tied house statute (RCW 66.28.010), two specific exceptions allow for advertising items to be provided from manufacturers to retailers (point of sale and special occasion licensed events). Advertising items not specifically authorized by statute, are considered "money's worth" under the tied house statute. Example: A brewer buys newspaper advertising for a tavern's event. The ad draws customers into the tavern, with expected increased sales. The direct benefit to the tavern licensee is no cost for the ad; the indirect benefit is increased sale to the tavern if there are more sales. This benefit provides more incentive to the tavern owner to sell more of this brewer's product (compared to brewer's competitors), or exclusive sale of the product, or selling this brewer's product at lower price to encourage consumer consumption.

Consumer protection regulations (WAC 314-52) are intended to prohibit ads that are misleading or false, that appeal to children, some outdoor advertising (proximity to playfield, church or school if administrative body objects), that promote over-consumption (offer 2 for the price of one), selling below cost.

1. Does the practice of this item **effectively support its intended purpose**?

☐Yes ☐No ☐Don't Know

Comments: [REDACTED]

2. Do the **current** regulations **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how? [REDACTED]

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

3. Should this item be ***considered for change***?

☐ Yes ☐ No (it should remain as is)

If Yes, what is the **priority**?

☐ High

☐ Medium

☐ Low

Comments: [REDACTED]

2. Anti-competition regulations

Reference for current law/rule/practice: RCW 66.28.010; 66.28.170; 66.28.180; 66.28.190; WAC 314-12-140; 314-12-145; 314-13-015; 314-13-020; 314-13-040; 314-11-085; 314-20-070; 314-20-090; 314-20-100; 314-24-190; 314-24-210; 27 CFR parts 6, 8,10,11

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): Avoidance of pressure on any one industry (producers, distributors, or retailers) from another that would cause collusion or result in unfair advantages or disadvantages that may result in over-consumption or increased access by minors.

1. Does the practice of this item **effectively support its intended purpose**?

☐Yes ☐No ☐Don't Know

Comments: [REDACTED]

2. Do the **current** regulations **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how? [REDACTED]

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

3. Should this item be **considered for change**?

☐Yes ☐No (it should remain as is)

If Yes, what is the **priority**? ☐High ☐Medium ☐Low

Comments: [REDACTED]

3. Tied House

General historical intent of the tied house law (as identified by the LCB): Prevent control of the retailer by manufacturer.

Intended purpose: Avoidance of pressure on any one industry (producers, distributors, or retailers) from another that would cause collusion or result in unfair advantage or disadvantages that may result in over-consumption or increased minors' access.

Key language: "No manufacturer, importer, distributor, . . shall have any financial interest, direct or indirect, in any license business." "no manufacturer, importer, distributor shall advance moneys or moneys' worth to a licensed person under an arrangement. . ."

- "direct" financial interest means ownership
- "indirect financial interest includes landlord-tenant relationship, contractual arrangement
- Moneys means cash
- Moneys' worth means anything of benefit to a retailer; the item need not be of value to the customer.

More than 30 statutory exceptions have been made over the years.

Examples of what is NOT permitted: Manufacturer/distributor gives restaurant owner t-shirts. Restaurant can use items to give to customers as prizes or giveaways (which could induce sales). Or, manufacturer provides its employees to conduct promotional activity (such as a hoop-shoot contest to draw in customers); use of manufacturer employees' lowers restaurant's business costs.

3.a. Tied House/Money's worth/Trade practices - **Money's worth provisions**

Reference for current law/rule/practice: RCW 66.28.010; 66.28.040; 66.28.042; 66.28.043; 66.28.150; 66.28.155; 66.28.190; 66.28.170; WAC 314-12-140; 314-12-145; 314-13-020; 314-52-040; 314-52-080; 314-52-085; 314-52-090; 314-52-113; 27 CFR parts 6, 8, 10, 11

State's **intended purpose** for the current law/rule/practice (as identified by the LCB):

Key phrases from the tied house statute (RCW 66.28.010) related to prohibited practices: 1) "direct or indirect" 2) "influence over retailer" 3) Advance of money or money's worth.

Examples of what is NOT permitted: Manufacturer/distributor gives restaurant owner t-shirts. Restaurant can use items to give to customers as prizes or giveaways (which could induce sales), or manufacturers provide their employees to conduct promotional activity (such as a hoop-shoot contest to draw in customers); use of manufacturer employees' lowers restaurant's business costs.

1. Does the practice of this item **effectively support its intended purpose**?

☐ Yes ☐ No ☐ Don't Know

Comments:

2. Do the **current** regulations **negatively impact**:

a. **Your business?** Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how?

b. **Consumers?** Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

c. **Society?** Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

d. **State resources?** Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

3. Should this item be **considered for change**?

☐ Yes ☐ No (it should remain as is)

If **Yes**, what is the **priority**? ☐ High ☐ Medium ☐ Low

Comments:

3.b. Tied House/Money's worth/Trade practices - Prohibition of ownership interest between producers and retailers

Reference for current law/rule/practice: RCW 66.28.010; 27 CFR 6

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): Core assumption that the manufacturer should not have access to consumers.

Under the current system, in general only the retail tier can sell to consumers. Consequently, liquor manufacturers and distributors do not have direct access to consumers (in general).

Ownership interests means financial interest in the form (a) least 10% interest in the business entity, (b) land-lord tenant (c) trademark owner, (d) contract arrangements that involve money or money's worth.

If they cannot have direct financial interest, the supplier cannot control the retailer.

If they have financial interest, then they can control what happens on the premises and have direct access to consumers. Because of the competitive nature of the business, suppliers are always thinking of new ways to access the consumers through promotional activities.

1. Does the practice of this item **effectively support its intended purpose**?

☐ Yes ☐ No ☐ Don't Know

Comments:

2. Do the **current** regulations **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how?

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

3. Should this item be **considered for change**?

☐ Yes ☐ No (it should remain as is)

If Yes, what is the **priority**? ☐ High ☐ Medium ☐ Low

Comments:

3.c. Tied House/Money's worth/Trade practices - Return on damaged goods

Reference for current law/rule/practice: WAC 314-20-070; 314-24-210; 27 CFR 11

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): WAC 314-20-070 (beer) and WAC 314-24-210 (wine) *do* allow for return of "not in saleable condition" to the distributor from which the retailer purchased. "Not in a saleable condition" would include damaged or spoiled products. There is no time limit.

Unless permitted as stated above, retail licensee cannot "return" product to the distributor. If a bottle of wine was damaged by the retailer (or employee or customer), the distributor is not required to "replace" it with a new bottle at no-cost to the retailer. If this were allowed, it would be considered giving "money's worth" to the retailer by the distributor. The intended purpose is to prevent giving of "money's worth" to the retailer by the distributor.

1. Does the practice of this item **effectively support its intended purpose**?

☐Yes ☐No ☐Don't Know

Comments: [REDACTED]

2. Do the **current** regulations **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how? [REDACTED]

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

3. Should this item be **considered for change**?

☐Yes ☐No (it should remain as is)

If **Yes**, what is the **priority**? ☐High ☐Medium ☐Low

Comments: [REDACTED]

4. Price related controls

General intended purposes (as identified by the LCB): Prevent access to cheap beer / wine. This is achieved by various regulations that prevent alcohol from being used as loss leader by retail licensees who sell to consumers.

Provide a “level playing field” which assures a particular product is sold at the same price to all retailers from the distributor / producer. Without a level playing field, there is greater incentive for the retailer with higher costs to go outside the system to buy the product cheaper.

Considered separately or as a whole, the general purpose and effect is to assure that the beer / wine is reasonably available to consumers at reasonable prices, while making it more difficult than it would otherwise be to sell them at prices so low as to encourage excessive or abusive consumption.

General intended effect: On average, prices of beer and wine in Washington are higher than they would be without the regulations below.

4.a. Price related controls - **Uniform pricing**

Reference for current law/rule/practice: RCW 66.28.170; 66.28.180; WAC 314-20-100; 314-24-190

State's **intended purpose** for the current law/rule/practice (as identified by the LCB):

This means every distributor purchasing from a particular producer pays the same price for a particular product; and every customer (retailer) of a particular distributor pays the same price for a particular product.)

Intended purposes: (1) prevent collusion between supplier and retailer, which could result in exclusive arrangements to sell certain products, (2) reduce influence of the supplier over the retailer (3) ensure level playing field (so small retailer gets same price as large retailers), (4) prevent feared effects of a free market (cheap beer/wine and more drunks), (5) discourage illegal trafficking in beer / wine.

1. Does the practice of this item **effectively support its intended purpose**?

☐Yes ☐No ☐Don't Know

Comments: [REDACTED]

2. Do the **current** regulations **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how? [REDACTED]

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

3. Should this item be **considered for change**?

☐Yes ☐No (it should remain as is)

If **Yes**, what is the **priority**? ☐High ☐Medium ☐Low

Comments: [REDACTED]

4.b. Price related controls - Price posting and hold

Reference for current law/rule/practice: RCW 66.28.180(2); 66.28.180(3); WAC 314-24-190; 314-20-100

State's **intended purpose** for the current law/rule/practice (as identified by the LCB):

The LCB maintains an electronic system that producers and distributors use. All prices become effective at the same time (the first day of the month), and all prices must be held for the entire month. Licensees cannot view competitors' postings until the prices become effective. Because the prices must be held for one month, licensees cannot immediately adjust prices in response to a competitor's posting. There are 250,000 – 300,000 postings each month.

Intended purposes: Makes the bans on quantity discounts, credit sales, and uniform pricing easier to enforce and more difficult to evade. Prevents price wars that could result in lower beer / wine prices.

1. Does the practice of this item **effectively support its intended purpose**?

☐Yes ☐No ☐Don't Know

Comments: [REDACTED]

2. Do the **current** regulations **negatively impact**:

a. **Your business?** Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how? [REDACTED]

b. **Consumers?** Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

c. **Society?** Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

d. **State resources?** Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

3. Should this item be **considered for change**?

☐Yes ☐No (it should remain as is)

If **Yes**, what is the **priority**? ☐High ☐Medium ☐Low

Comments: [REDACTED]

4.c. Price related controls - Mandatory minimum 10% price mark-up

Reference for current law/rule/practice: RCW 66.28.180(2)(d); 66.28.180(3)(b)

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): Prevent beer/ wine from being used as a loss leader by selling below cost. Producers must mark up at least 10% above their production costs. Distributors must mark up at least 10% above their acquisition cost.

1. Does the practice of this item **effectively support its intended purpose**?

☐Yes ☐No ☐Don't Know

Comments:

2. Do the **current** regulations **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how?

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

3. Should this item be **considered for change**?

☐Yes ☐No (it should remain as is)

If **Yes**, what is the **priority**? ☐High ☐Medium ☐Low

Comments:

4.d. Price related controls - Quantity discounts prohibited

Reference for current law/rule/practice: RCW 66.28.180(2)(d); 66.28.180(3)(b); WAC 314-12-140(3)

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): Supports the uniform pricing regulation. See also intended purposes for uniform pricing.

Example: A deal by producer / distributor to give 100 cases free if 100 cases purchased by retailer.

1. Does the practice of this item **effectively support its intended purpose**?

☐ Yes ☐ No ☐ Don't Know

Comments:

2. Do the **current** regulations **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how?

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

3. Should this item be **considered for change**?

☐ Yes ☐ No (it should remain as is)

If Yes, what is the **priority**? ☐ High ☐ Medium ☐ Low

Comments:

4.e. Price-related controls - Delivered pricing from distributors to retailers

Reference for current law/rule/practice: RCW 66.28.180(2)(h)(ii)

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): Supports the uniform pricing regulation. Also see intended purposes for uniform pricing.

The price paid by a retailer for a product is the same whether the distributor delivers it to the retailer or the retailer picks it up from the distributor.

1. Does the practice of this item **effectively support its intended purpose**?

☐ Yes ☐ No ☐ Don't Know

Comments:

2. Do the **current** regulations **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how?

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

3. Should this item be **considered for change**?

☐ Yes ☐ No (it should remain as is)

If Yes, what is the **priority**? ☐ High ☐ Medium ☐ Low

Comments:

4.f. Price related controls - COD requirements for retailers

Reference for current law/rule/practice: RCW 66.28.010; WAC 314-20-090; 314-13-015; 314-13-020; 314-12-140(3); 27 CFR 6 [non-applicable products and credit exceptions: RCW 66.28.190; WAC 314-12-140(7); 314-52-080(3)]

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): (1) Keeps retailers independent from distributors; (2) prevents manipulation between tiers by use of quantity discounts, (3) prevents relationships and incentives leading to exclusivity. Prevents any form of credit for beer / wine between distributors and retailers.

1. Does the practice of this item **effectively support its intended purpose**?

☐Yes ☐No ☐Don't Know

Comments: [REDACTED]

2. Do the **current** regulations **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how? [REDACTED]

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

3. Should this item be **considered for change**?

☐Yes ☐No (it should remain as is)

If Yes, what is the priority? ☐High ☐Medium ☐Low

Comments: [REDACTED]

5.a. Three-Tier / General Licensing - Mandatory use of distributors

Reference for current law/rule/practice: RCW 66.24.360(5)(a); RCW 66.28.070; WAC 314-13-010.

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): Intended purposes (pre-2SSB 6823), were (1) to control the flow of alcohol into the state, (2) to support efficient tax collection, (3) to facilitate administrative inspection / examination of product by limiting the entry-point for products sold in WA to the distributor located within the state.

1. Does the practice of this item **effectively support its intended purpose**?

☐ Yes ☐ No ☐ Don't Know

Comments:

2. Do the **current** regulations (including the new provisions in 2SSB 6823) **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how?

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

3. Should this item be **considered for change**?

☐ Yes ☐ No (it should remain as is)

If Yes, what is the **priority**? ☐ High ☐ Medium ☐ Low

Comments:

5.b. Three-Tier / General Licensing - Impacts of Provisions in 2SSB 6823

Reference: 2SSB 6823 Bill Summary, text of 2SSB 6823, summary of changes the bill initiates, and changes to RCW 66.24.206; 66.24.210; 66.24.290; 66.24.270; 66.24.290; 66.28.180 (changes are included in the text of the bill).

State's **intended purpose** for the **revised** law/rule/practice (as identified by the Legislative Bill Summary): To comply with a federal court ruling: "On December 21, 2005, in matter of Costco Wholesale Corp. v. Roger Hoen, et al., federal district court judge Marsha Pechman rules that Washington's statute permitting in-state wineries and breweries to distribute their own products to in-state retailers while not allowing out-of-state wineries and breweries to do the same was unconstitutional as a violation of the Commerce Clause of the United States Constitution. Judge Pechman stayed her order until April 14, 2006, to allow the Legislature to take action." (Final Bill Report)

State's **intended purpose** for the revised law/rule/practice (as identified by the LCB): (1) retain self-distribution privilege of in-state wineries/breweries, and (2) to ensure accurate tax collection with reporting requirements for the shipping producer and receiving retailer.

1. This change will not be implemented until July 2006, therefore impacts cannot be assessed at this time. However, the Legislature also directed the Task Force to analyze *implications* of this act.

2. Do you believe the modified regulation will **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how?

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

3. Do you have suggestions for how impacts can/should be measured once there is experience with the implementation of the changes?

5.c. Three-Tier / General Licensing - Foreign import distribution regulations (no direct shipment)

Reference for current law/rule/practice: RCW 66.24.206(1)(c); 66.24.270(2)(c); WAC 314-20-140; 314-20-145; 314-20-160; 314-24-120; 314-24-115

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): to (1) control the flow of alcohol into the state, (2) support efficient tax collection, (3) facilitate administrative inspection / examination of product by limiting the entry-point for products sold in WA to the distributor located within the state. 2SSB 6823 did NOT expand the self-distribution privilege to out-of-state non-producers who sell foreign products or other US-produced wine/beer because this was not necessary to comply with Judge Pechman's decision on the direct shipment issue.

1. Does the practice of this item **effectively support its intended purpose**?

☐ Yes ☐ No ☐ Don't Know

Comments: [REDACTED]

2. Do the **current** regulations **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how? [REDACTED]

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how? [REDACTED]

3. Should this item be **considered for change**?

☐ Yes ☐ No (it should remain as is)

If Yes, what is the **priority**? ☐ High ☐ Medium ☐ Low

Comments: [REDACTED]

5.d. Three-Tier / General Licensing - Prohibition on retail-to-retail distribution

Reference for current law/rule/practice: RCW 66.28.070(2); WAC 314-13-010

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): to support separation of the tiers under the current 3-tier system.

1. Does the practice of this item **effectively support its intended purpose**?

☐Yes ☐No ☐Don't Know

Comments:

2. Do the **current** regulations **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how?

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

3. Should this item be **considered for change**?

☐Yes ☐No (it should remain as is)

If **Yes**, what is the **priority**? ☐High ☐Medium ☐Low

Comments:

5.e. Three-Tier / General Licensing - Prohibition on sampling in grocery stores / sampling at on-premises licensees

Reference for current law/rule/practice: RCW 66.24.360; WAC 314-02-100(1) [grocery] (sampling allowed under 27 CFR 6.95)

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): to reduce minor access and to prevent misuse. Currently, beer/wine specialty shops (approx. 300) have restricted sampling privileges. There are 4,645 grocery stores statewide. Children and minors go to grocery stores more than beer/wine specialty shops. By limiting sampling to specialty stores, we are also limiting access of free liquor to those who suffer from alcoholism.

1. Does the practice of this item **effectively support its intended purpose**?

☐Yes ☐No ☐Don't Know

Comments:

2. Do the **current** regulations **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how?

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

3. Should this item be **considered for change**?

☐Yes ☐No (it should remain as is)

If **Yes**, what is the **priority**? ☐High ☐Medium ☐Low

Comments:

5.f. Three-Tier / General Licensing - Prohibition on central warehousing.

Reference for current law/rule/practice: RCW 66.28.180(2)(h)(i)

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): to control the flow of alcohol by requiring direct delivery from supplier to retail premises where the beer/wine is sold. This also facilitates administrative inspection and enforcement when necessary for LCB staff to monitor product.

All deliveries of beer / wine must be made directly to the premises from which sales to consumers are to be made rather than a single warehouse from which a retailer could supply multiple retail outlets.

1. Does the practice of this item **effectively support its intended purpose**?

☐Yes ☐No ☐Don't Know

Comments:

2. Do the **current** regulations **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how?

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

3. Should this item be **considered for change**?

☐Yes ☐No (it should remain as is)

If **Yes**, what is the **priority**? ☐High ☐Medium ☐Low

Comments:

5.g. Suggestion to add - Restrictions on product placement in grocery stores

Reference for current law/rule/practice: No current rule

One interview group (prevention/treatment) suggested that in the interest of making alcohol less tempting to youth, it should be placed separately from non-alcohol drinks.

1. Do you believe this is an issue? (lack of prioritized focus on misuse and tax issues)

☐Yes ☐No ☐Don't Know

Comments: [REDACTED]

2. Should this item be ***considered*** for further discussion?

☐Yes ☐No (it should remain as is)

If Yes, what is the priority? ☐High ☐Medium ☐Low

Comments: [REDACTED]

6.a. Regulatory strategy / emphasis - Criteria for consideration in developing regulations and for interpretation of regulations

Many interview participants stated there should be specific criteria or guidance used in developing regulations and interpreting them that would provide a more consistent and workable system.

1. Do you believe this is an issue?

☐Yes ☐No ☐Don't Know

Comments: [REDACTED]

2. Should this item be ***considered*** for further discussion?

☐Yes ☐No (it should remain as is)

If Yes, what is the **priority**? ☐High ☐Medium ☐Low

Comments: [REDACTED]

6.c. Regulatory strategy / emphasis - Priority of enforcement resources

This item came up repeatedly in interviews/focus groups. The theme was that LCB enforcement resources should be prioritized on regulations directly controlling the misuse of alcohol and tax collection (such as licensing, minor access, serving restrictions) not on the money's worth issues that seem small in comparison to misuse or tax evasion, especially if resources are sparse (see 6.d).

1. Do you believe this is an issue? (lack of prioritized focus on misuse and tax issues)

☐Yes ☐No ☐Don't Know

Comments: [REDACTED]

2. Should this item be ***considered*** for further discussion?

☐Yes ☐No (it should remain as is)

If Yes, what is the **priority**? ☐High ☐Medium ☐Low

Comments: [REDACTED]

6.d. Regulatory strategy / emphasis - Lack of enforcement resources

Many interview participants stated that there are not sufficient enforcement resources to enforce the regulations consistently.

1. Do you believe this is an issue?

☐Yes ☐No ☐Don't Know

Comments: [REDACTED]

2. Should this item be ***considered*** for further discussion?

☐Yes ☐No (it should remain as is)

If Yes, what is the **priority**? ☐High ☐Medium ☐Low

Comments: [REDACTED]

6.e. Regulatory strategy / emphasis - Abundance of paperwork

Many interviewees stated there is too much paperwork required in general and there should be an initiative to reduce paperwork, automate more and streamline processes.

1. Do you believe this is an issue?

☐Yes ☐No ☐Don't Know

Comments: [REDACTED]

2. Should this item be ***considered*** for further discussion?

☐Yes ☐No (it should remain as is)

If Yes, what is the **priority**? ☐High ☐Medium ☐Low

Comments: [REDACTED]

6.f. Regulatory strategy / emphasis - **Lack of impact measures**

The LCB and some interview participants indicated that there is a lack of measures available to determine if LCB regulations are working or not, and what impact they have on the industry, consumers, society and state resources.

1. Do you believe this is an issue?

☐Yes ☐No ☐Don't Know

Comments:

2. Should this item be **considered for further discussion**?

☐Yes ☐No (it should remain as is)

If Yes, what is the priority?

☐High

☐Medium

☐Low

Comments:

6.g. Regulatory strategy / emphasis - **General regulation complexity, language and relevancy**

Many interviewees stated that the LCB statutes and rules are overly complex, the language is often hard to understand and some of the regulations are no longer relevant in today's environment. Most of these people stated that a comprehensive re-write of the regulations would help reduce complexity, increase understanding (and potentially compliance), and eliminate regulations that are no longer relevant.

1. Do you believe this is an issue?

☐Yes ☐No ☐Don't Know

Comments:

2. Should this item be **considered for further discussion**?

☐Yes ☐No (it should remain as is)

If Yes, what is the priority?

☐High

☐Medium

☐Low

Comments:

7.a. LCB role/focus - Rules for LCB retailing (not equitable with other retailers)

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): The 1969 California Wine Act allowed grocery stores the ability to sell wine other than Washington wines. In 1980's & 1990's, LCB wine sales in its retail stores provided emerging WA wine industry access to the market. Because LCB is not a licensed entity, it is not subject to the same requirements and regulations imposed on private sector licensees.

1. Does the practice of this item **effectively support its intended purpose**?

☐Yes ☐No ☐Don't Know

Comments:

2. Do the **current** regulations **negatively impact**:

a. Your business? Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how?

b. Consumers? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

c. Society? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

d. State resources? Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

3. Should this item be **considered for change**?

☐Yes ☐No (it should remain as is)

If Yes, what is the **priority**? ☐High ☐Medium ☐Low

Comments:

7.b. LCB role/ focus - LCB in competition with other retailers by selling beer and wine

State's **intended purpose** for the current law/rule/practice (as identified by the LCB): The 1969 California Wine Act allowed grocery stores the ability to sell wine other than Washington wines. In 1980's & 1990's, LCB wine sales in its retail stores provided emerging WA wine industry access to the market.

1. Does the practice of this item **effectively support its intended purpose**?

☐Yes ☐No ☐Don't Know

Comments:

2. Do the **current** regulations **negatively impact**:

a. **Your business?** Yes ☐ No ☐ N/A ☐ Don't Know ☐

If yes, *briefly* explain how?

b. **Consumers?** Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

c. **Society?** Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

d. **State resources?** Yes ☐ No ☐ N/A ☐ Don't Know ☐

*If yes, *briefly* explain how?

3. Should this item be **considered for change**?

☐Yes ☐No (it should remain as is)

If **Yes**, what is the **priority**? ☐High ☐Medium ☐Low

Comments:

SUBMISSION INSTRUCTIONS:

1. Double-check your votes to ensure the correct boxes are checked.
2. Save your file.
3. Send email with your finished document attached to Sterling Associates: JillS@sterling-llp.com **NO LATER THAN** close of business **Friday, June 2**. If you can get them to us earlier please send them in. If you are not going to participate please also let us know via email as soon as possible so we are not expecting your document.
4. **We would much prefer emailed electronic copies** so we can cut and paste your comments for the compiled version. If there is no way you can email the survey, please let us know via email and then mail with sufficient postage **no later than Wednesday May 31**. Mail to Jill Satran, Sterling Associates, LLP 4820 Yelm Hwy SE, Suite B-PMB 148, Lacey, WA 985003

THANK YOU!!

Appendix G
Task Force Meeting Notes
as Approved by the Task Force

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1. Introductions of Task Force chair, members, Sterling Associates and audience.
2. Welcome and opening remarks from Merritt Long, LCB chairman.
 - a. This is a very important and timely effort. Focus attention and consideration on three things:
 - b. Wine and beer sales and distribution is at a critical junction. The LCB has heard the current system is outdated, archaic, cumbersome, complex – especially related to the mundane. LCB realizes that the three-tier system places constraints on the business. The time has more than come for a comprehensive review of the three-tier system.
 - c. Should the three-tier system be changed, and if so how?
 - i. Passage of Senate Bill 6823.
 - ii. Judicial – US District Court ruling that constraints of current rules are in violation of 21st amendment. The state is appealing the decision, but regardless of that outcome, this is an issue the LCB believes needs to be reviewed.
 - iii. The Board has no preferred outcome related to the Task Force findings and recommendations. We understand the Task Force may recommend an entire system overhaul, modifications or status quo with minor changes – all and more are options.
 - iv. Sterling Associates, a management consulting firm, has been hired to be an objective party to facilitate the Task Force, provide analysis and prepare the final report on behalf of the Task Force.
 - v. The report will go to the LCB, but will be presented “as is” to the Legislature. The report will not be edited or modified by the LCB.
 - vi. There is a relatively short amount of time for results – the report is to be complete by November. The Task Force will likely need to scope its work to short, medium and long-term areas to address.
 - d. Working toward greater good.
 - i. Each member is encouraged to focus beyond just personal interests, and to also consider the greater good and impact to Washington State and citizens.
3. Nate Ford (Task Force Chair) – presented the Task Force Ground Rules (Handout #2).
 - a. Will Task Force members have time for consideration before a vote?
 - i. Nate Ford/Sterling: Members may have time to consider a vote if the group needs it. Members may need to then vote via email, since some direction will be needed to focus materials for a subsequent meeting.
 - b. Will an employee union representative participate in Task Force?
 - i. LCB: No. The scope of the Task Force review does not include LCB monopoly sale of spirits and is not expected to have any impact on LCB store employees.
 - c. Can Task Force members choose their own substitutes if they need to miss a meeting?

- i. Nate Ford: Yes. They must conform to the Ground Rules (Handout #2), meaning the substitute is backgrounded, prepared and ready to speak for the member, and will brief the member on the meeting afterward since the meetings will not backtrack.
- 4. Task Force Charter discussion (p.5-6 of presentation and Draft Task Force Charter)
 - a. A suggestion was made to change the language regarding recommendations consistent throughout the document. The language should make it clear that there may or may not be improvements necessary, or recommendations made. This language needs to be added to the Success section - "...recommendations, if any.." Same in Purpose section, and Roles and Responsibilities. There was no objection.
 - b. Sterling will make changes and email revised Charter to Task Force members.
- 5. Process (presentation)
 - a. Who is participating in interviews and focus groups? ACTION: Sterling will bring a list to the next meeting.
- 6. Jim Goldberg – General Counsel for National Alcohol Beverage Control Association (NABCA) in Virginia. (See "The American Experience with Alcohol" PowerPoint presentation.) All questions below addressed by Mr. Goldberg.
 - a. Are there any other states going through the kinds of challenges that WA is facing, related to the Costco case, etc.?
 - i. Most states are looking at in-state vs. out-of-state producers and how they are treated.
 - ii. Washington is ahead of the curve considering the issues brought through the Costco lawsuit and doing this Task Force review with a broad scope.
 - b. Are there any data on public safety goals in other states?
 - i. There is data that implies there are lower sales of alcohol per capita in control states of the controlled product (in Washington that mean spirits-distilled alcohol.). Not aware of anything on alcohol abuse correlated specifically to the method of control. There are so many permutations of control, it is hard to correlate data to specific regulatory practices.
 - c. How many states are using only the Federal Tied House laws, without and have not added more restrictive state rules?
 - i. Jim Goldberg will research that. (ACTION: Sterling will relay the answer to this question when received by Mr. Goldberg.)
 - d. Is it true every state has a three-tier system?
 - i. Yes, every state has a mandated three-tier system. Some states compress the tiers so that some entities may participate in all three tiers. (Example: a winery may be a producer, a wholesaler and have a retail outlet.)
 - e. Are there pricing regulations at the Federal level?
 - i. No.
- 7. Current System presentation (see presentation materials)
 - a. What was the purpose of the sunset clause in 6823?

- i. Senator Kohl-Welles: To give time for the Task Force to conduct the review.
 - ii. Phil Wayt: To give the new rules some time to see how it works and an automatic time to re-examine them.
 - b. What is the purpose of Post and Hold? What is it designed to achieve and prevent?
 - i. LCB Staff: The purpose is to achieve uniform pricing by wholesalers and distributors. Manufacturers post their prices to distributors, and distributors post prices to retailers. Have to hold for 30 days without change to prevent drastic fluctuation in prices.
 - ii. LCB Staff: It also provides information for the LCB on what the prices are and helps address complaints about non-uniform prices or bulk discounts that are not allowed. It facilitates enforcement of pricing controls.
 - c. Concern that the term “orderly market” is used a lot, but it is not clear what the definition is.
 - i. Sterling: will discuss with policy goals in next part of meeting.
 - d. The LCB is also a retailer. How does that fall into the current system scheme?
 - i. LCB: It is part of the controlled distribution.
- 8. Discussion of Washington State’s highest-level policy goals for alcohol controls – not how they are supported, that will be a later discussion, but are they still relevant today? Do they need to be modified? Are there additions?
 - a. The social, political and business environment has changed since the 1930’s. (See presentation)
 - i. Comment that education about alcohol use is not just about the negative aspects of alcohol but also about the health benefits of alcohol when used in moderation.
 - b. Current goals are 1) to moderate consumption, 2) to promote an orderly market, and 3) to promote the efficient collection of state taxes.
 - c. Summary of discussion (no final decisions made):
 - i. Discussion of goal 1 to moderate consumption. There were some suggestions for re-wording the goal, but general consensus that the goal is relevant today.
 - ii. Discussion of goal 2 related to an orderly market. Discussion focused on varying definitions of what “orderly market” means and whether it is a way to support goals 1 and 3 rather than a goal in itself. Some members stated it should not be a goal, but that 1 and 2 are sufficient. Others stated that an orderly market goal is critical.
 - iii. ACTION: Sterling will prepare a revised draft definition gleaned from comments during interviews and focus groups and email to the Task Force to consider for the continuation of the discussion at the next meeting.
 - iv. Discussion of goal 3 related to tax collection – general consensus that the goal is relevant today.
- 9. Closing (Sterling Associates)
 - a. Agenda accomplished!
 - b. Next meeting May 18, 10a-3p, LCB Olympia Headquarters, 2nd floor, Conference Room.

- c. Will continue policy and strategy discussions next meeting, and also present results from interviews and focus groups.
- d. LCB provided a hard copy synopsis of the Costco v. Hoen lawsuit, a press release indicating the state's intention to appeal the court decision in that lawsuit, and information that will be contained on the LCB's website through the link to the Three-Tier Task Force (www.liq.wa.gov).
- e. Task Force members, please review meeting materials that come to you before the next meeting.
- f. Request for Task Force members to receive contact information for other Task Force members.
ACTION: Sterling will email contact information to the Task Force members.

10. Introductions of Task Force Members, Sterling Associates and audience.
11. Senator Kohl-Welles stated she believes there should be an LCB employee representative on the Task Force and also a representative of the Sports/Entertainment facilities.
 - a. The Chair responded that there have been a number of requests for additional members. There are a number of ways others can provide input through comments that are forwarded to Task Force members. It would be unwieldy to add everyone that has requested to be added to the Task Force.
 - b. Senator Kohl-Welles would like it noted for the record that she believes these representatives should be included.
 - c. Phil Wayt mentioned that the Wholesalers Association would like more members on the Task Force. The manufacturer and retail tiers are represented multiple times and the distributor tier should be similarly represented.
 - d. Representatives of the prevention and treatment community responded they too had wanted more representation, but they understand the need to hold to the present membership.
12. Voting Guidelines were reviewed. (See presentation slide 3.)
 - a. A member noted the Task Force may be required to follow the Open Public Meetings Act (RCW 42.30). If so, balloting outside of an official meeting would be prohibited.
 - i. Sterling Associates pointed out the votes will be published but the point was made that if this Task Force is subject to the Open Public Meetings Act, voting outside the meeting is prohibited, even if it is simply used as a straw poll and the official vote occurs at a Task Force meeting.
 - ii. LCB staff and the LCB's assistant attorney general (AAG) offered that they did not believe the Task Force is subject to the Open Public Meetings Act because the group is not a "governing body" as contemplated by the act. The LCB asked the AAG to look into the issue further.
 - iii. If votes are required to be held at public meetings, the Task Force work plan and approach will be modified to accommodate the impacts of the added meeting time.
13. The summary of the May 3 meeting was adopted without change. No additional comments or objections were made.
14. Task Force Charter revisions. Minor changes related to adding "...recommendations, if any..." were made and the modified document was emailed to all Task Force members before the meeting. Additional comments were requested.
 - a. A question was raised about whether the "introduction" section should be changed to reflect the discussions of the Task Force from the previous meeting and potentially today.
 - i. The "introduction" section in the charter states an historical view of the state's policy goals. The Task Force discussion about state policy goals at the last meeting was forward-looking.
 - ii. A comment was made that the word "temperance" is confusing. That is not what the LCB has done. Another Task Force member commented that the word "temperance" is historical and should be left as is. A motion to remove the word "temperance" did not receive a second. The word will not be removed as a historical perspective.

- iii. Statement that the discussion of the policy goals is important and is covered in the scope (as stated in question #1 in charter.)
 - iv. A motion was made, and adopted, to accept changes that were made in the “final draft Task Force Charter” document without further modification.
 - b. Rep. Conway would like to note that the issues should address impacts to the industry.
15. Interview feedback presentation (see presentation and full text of interview summary document)
- a. Some Task Force members would like to see the judge’s decision on the Costco lawsuit. LCB provided copies of the final briefs and the judge’s decision.
 - b. Task Force would also like a copy of the language in 2SSB 6823 that directed the LCB to convene the Task force.
 - i. **ACTION: Sterling will send to all Task Force members the language in 2SSB 6823 that directed the establishment of the Task Force. (See Attachment #1)**
 - c. Convenience stores are not represented in the interview summaries. Sterling Associates has been unable to get interviews set up, but will continue to try.
 - d. Question: how does the distributor tier support enforcement?
 - i. Wholesaler Association members have many regulations that they must follow and also ensure retailers are licensed, etc. (Phil Wayt)
 - ii. Response that no particular tier is more virtuous than any other tier. All tiers are subject to regulations and all follow them or not. LCB is there to maintain order and are the most objective. It is rather insulting to suggest that one tier describes themselves as more virtuous than the other. (Mike Hale)
 - e. The LCB believes the regulations ARE too complex as well, and inconsistencies occur in interpretation because of it. (Rick Garza)
 - f. Who was interviewed and how many?
 - i. See interview summary p. 30
 - ii. Who were the participants specifically?
 - iii. **ACTION: Sterling will send list of individuals attending to the Task Force members. (See Attachment #2)**
 - g. Need to change in interview summaries footer “small retailers (convenience stores)” – had not been interviewed yet. (No comments are attributed to them in the body of the text however.)
 - i. **ACTION: Sterling will change reference in summary document footer, and in Meeting 2 presentation.**
 - h. General discussion occurred regarding interview summaries.
 - i. The list of items for change consideration is not exhaustive, and may need to be modified as discussions continue.
 - ii. The Task Force will have to prioritize and narrow the list. There are too many items on the list to tackle them all within the time provided the Task Force.

1. Some felt it would be useful to cluster the items as a means of helping the prioritization process.
2. The Task Force will be surveyed between now and next meeting to help prioritize this list.
3. Task Force members will receive additional information about each item (e.g., what it is, how it is accomplished and why it is (or is not) currently in place) will be provided by the LCB as part of the surveying process.
4. A member asked if experts would be made available to explain why certain regulations are in place. If experts are identified they need to be selected independently since there are experts on all sides of each regulation and the Task Force needs to be presented a balanced view.
5. One member noted it is important to have as much data as possible about how the current structure is supporting the goals. We need to make sure there is actually a problem before changing it.

16. POLICY STRATEGY DISCUSSION

- a. Policy goal to “foster temperance / and promote moderation in consumption of alcohol.” (See presentation slide 13)
 - i. At the previous meeting, the Task Force concluded the wording needed to change to “prevent the misuse of alcohol.” The LCB offered a working definition for this goal that defines misuse and specifies that the state’s efforts should not affect responsible moderate consumption of alcohol.
 - ii. The Task Force discussed whether the term “public use” should be removed because harm can come from private consumption as well as public use.
 1. Removing the reference to “public” use raises a concern that the goal might be interpreted to allow the LCB the authority to enforce regulations in private homes.
 - iii. There was significant discussion about whether the state’s policy goal should include a specific reference to the state’s role in preventing alcoholism, since alcoholism is what gives rise to a significant amount of the public harm from alcohol.
 1. Adding a specific reference to preventing alcoholism may result in an increased burden on retailers to determine who is and is not an alcoholic.
 2. Alcoholism is an illness and the state should not make it illegal to have an illness. Care must be taken to focus on the behavior and not the illness.
 - iv. A motion was made to accept the state’s policy goal as stated in the presentation materials: *To prevent the misuse of alcohol. “Misuse of alcohol” includes underage sales/ drinking, driving while under the influence, serving to inebriated consumers, public inebriation, sales outside of the regulated system, or any other public use that could promote harm or create safety or nuisance issues. In an attempt to prevent misuse, the state should not affect responsible moderate consumption, where “responsible moderate consumption” is the public sale/ consumption of alcohol by legal adults, without misuse.”*

1. The motion was amended to modify the language from “...or any other public use that could promote harm...” to “...or any other use that could promote public harm...”
- v. The Task Force adopted the goal, as amended, by a vote of 10 to 5.
- b. Policy Goal on “efficient collection of taxes.” (See presentation slide 13)
 - i. The Task Force adopted, by unanimous vote, the proposed state’s policy goal to “promote the efficient collection of taxes.”
 - ii. There was no debate.
- c. Policy goal on “orderly market.” (See presentation slides 14-15)
 - i. Phil Wayt stated the WBWWA feels very strongly that goal needs to continue and made a motion to accept goal statement as is.
 - ii. The Task Force members engaged in significant discussion of the definition of “orderly market.”
 1. The LCB offered a modified statement of this goal drawn from an existing statute (RCW 66.28.180(1)): *to promote the public interest in fostering the orderly and responsible distribution of malt beverages and wine towards effective control of consumption.*
 2. The LCB’s working interpretation of this goal is: *the avoidance of pressure on any one industry (producers, distributors, or retailers) from another that would cause collusion or result in unfair advantages or disadvantages that may result in over-consumption or increased access by minors.*
 3. Several members expressed concern that the terminology should not lock the state into regulating the same way it has in the past, and that the definition of “orderly” should allow greater flexibility in the state’s approach to regulation in the future.
 4. The Task Force rejected an amendment to define the term “orderly” as “conduct that is in compliance with federal and state competition laws and with federal and state alcohol beverage laws.”
 - iii. Rep. Conway stated that a separate goal should be considered that the regulatory system should promote state industry and state employment. He is concerned that the impacts of any changes take into account their impact on business and employment (which impacts taxes generated for the state.)
 1. The Task Force can argue whether the LCB is responsible for that, or whether the legislature is responsible, but it should be a goal to promote business, not just collect taxes and prevent misuse. Much of what is being considered here relates to economic business practices, and the LCB does have control over that.
 2. Economic development should be part of this discussion, but it’s not part of the orderly market definition. Instead it should be discussed as a possible proposal for a fourth goal.
 - iv. The Task Force voted, 9 to 8, to adopt the state policy goal as stated in the presentation materials, with the LCB’s working interpretation.

17. AAG informal opinion is that the TASK FORCE meetings do not fall under the Open Public Meetings Act, and therefore could conduct votes by ballot (with published results) if the group desires.
18. The Task Force discussed how to move forward
 - a. Sterling Associates suggested that, even if the Task Force is not required to comply with the specifics of the Open Public Meetings Act, the Task Force could follow the requirements of act anyway. Since this would mean the Task Force could not use interim balloting, the Task Force would need to add a meeting in July.
 - i. The members decided to use a survey to provide useful information and as a means to consolidate information.
 - ii. Agreed to use surveys for preliminary thinking, and then discuss and vote at the next meeting, and see then if need to insert an additional meeting.
19. Members noted the core assumption on page 16 is not an accurate statement. (*“Manufacturer’s profit motive to sell as much as it can of its products should be mitigated because of the harmful effects of alcohol consumption; the manufacturer must be separated from the consumer.”*) This statement appears to suggest that manufacturers pursue a profit motive to the point of irresponsibility, which is not accurate. Most businesses, including manufacturers, are responsible and while they pursue profits they are also concerned with promoting responsible moderate consumption and discouraging misuse of alcohol.
 - a. LCB staff clarified this was an underlying assumption and rationale of original tied house regulations. It is a 1930 assumption about 1920 behavior.
 - b. A similar objection was made to the phrase “sell...as much as it can...” It is not an accurate statement for retail profit motives either.
20. The Task Force will reconvene on June 15, 10:00 a.m., in the LCB’s Board Room.

- 1) Introductions of Task Force Chair, Members, Sterling Associates and audience.
- 2) Agenda included in presentation.
- 3) Last meeting notes, no comments or corrections. **Decision:** Adopted.
- 4) Objective of today's meeting (presentation p.5)
- 5) Previous meeting decisions (presentation p.6)
- 6) Question: (Phil Wayt) Will you, as staff, try to limit the number of top priorities addressed by the Task Force?
(Sterling Associates): There may be some things that don't require as much external research so we didn't want to set a hard and fast limit. Depending on the results of the priority selection, we will assess how much we think the group can accomplish. If we can do more, we can continue down the list.
- 7) Discussion on impact assessments
 - a) (Rep. Conway) Unresolved from last session. As we've outlined our goals, my clear concern from a legislative perspective is the economic impacts, and state revenue impacts of any recommendations that come forward. So I hope that whatever process we follow allows an opportunity to evaluate that aspect.
(Sterling Associates): Yes, we plan to incorporate the economic impacts into the analysis with the help of the Office of Financial Management when necessary.
 - b) (Senator Kohl-Welles) I want to address the same issue. I think we need to make sure economic impacts are built in (perhaps in the 3rd goal). For instance, what is the impact on beer and wine producers? This should transcend all considerations. Not sure how to go about doing that procedurally, but would like that prominently incorporated into the process.
 - i) (Sterling Associates): We intend to make that a major component of any analysis we're doing on any of the potential alternatives. We can make sure that's a strong part of the analysis.
 - ii) Senator Kohl-Welles would like to see it part of the third goal.
 - c) (Carol Owens): In each of these three goals, we want to make sure that any time there is a change considered in access or purchasing ability, that there is an assessment of the impact of abuse. The prevention / treatment community are a little outvoted on the Task Force, but we want to make sure that we have a clear balance in our analysis and ultimate recommendations.
 - d) (Sterling Associates): In the diagram, you can see the decision process we had envisioned for any changes. We incorporated questions about state, business, societal and consumer impacts. We will continue to assess all alternatives against those four items.
 - e) (Fred Hellberg): Lack of impact measures were identified by six members as high priority. These should be an overlay of all items we look at. From a policy perspective there needs to be some recommendation from this group that this needs to be incorporated throughout.
 - f) (Mary Sagawa): As we talk economic impact, we also need to talk about the economics related to misuse and over-consumption (DUIs, etc.)
 - g) (Tim Hightower): Motion to include a Preamble to the policy goals that all LCB actions will take into account these issues as they consider changes or new regulations, economic impacts on their promulgation and regulation.
 - h) (Sen. Kohl-Welles): I like that idea since my concern doesn't fit very well in policy #3.

- i) (Mary Sagawa): offered to help with language on use and abuse language as well. Tim and I have different issues.
 - j) (Scott Hazlegrove) (substituting for Katie Jacoy): it appears to me that issues around treatment issues are incorporated in the policies already adopted. Isn't the idea to use the policies as criteria for any changes?
 - k) (Mary Sagawa): The policy stated is only good to the extent that it is actually used to evaluate alternatives.
 - l) (Scott Hazlegrove): If the process designed to assess each alternative against the three policy goals, the only thing that's missing from the policy goals is the economic piece.
 - m) (Mary Sagawa): I'm fine with that as long as we're hitting all three of those areas.
 - n) (Tim Hightower): The purpose of these goals is to make sure that all the items we talk about are designed to achieve those goals.
 - o) (Sterling Associates): In the preamble, we will state that the goals along with economic impacts will be the basic criteria used to consider any changes.
 - p) (John Sullivan) (substituting for John McKay): 2nd the motion
 - q) (Tom Carr and Fred Hellberg): Motion to table until the language is developed. Adopted. [**Action:** Sterling Associates will draft language for the preamble and send out via email for comment.]
- 8) Stakeholder presentations (from several groups who had requested to be on the Task Force and do not feel their interests are necessarily represented by members on the Task Force):
- a) WPEA – Luis Moscoso (see handout) – Employee effects need to be considered when assessing impacts of changes. Could provide insight not represented on the Task Force.
 - (1) Discussion: Rep. Conway: Would you be able to help inform the issue of central warehousing? Mr. Moscoso: Yes. Rep. Conway: the composition of the Task Force was in the legislation, and did not include employee groups. Like to have employee input. Hope to arrange a process so they have input. Rick Garza: employees have been involved in other critical decisions and they will be involved in discussions about impacts to the agency and employees. WPEA had every opportunity to be involved during the legislation discussion that resulted in the Task Force. Senator Kohl-Welles: brought up the concern that employees were not on the Task Force at the first meeting. Not an intention to exclude any group. Don't see a reason to specifically exclude them. Shouldn't be so inflexible to not add to the Task Force. Added the California Wine Institute before the Task Force was convened. Don't see any harm in adding an employee representative. Mr. Moscoso: Mr. Garza missed the point that the WPEA should be involved at the Task Force level. Do not want to force membership onto the Task Force, but want to be involved somehow. Lynn Gust: there is a process for anyone to submit comments at any time.
 - b) Independent Distributors – Matt Mabus (see handout): Independent distributors consist of 26 independent, privately owned distributors. Issues do not always align with the Washington Beer and Wine Wholesalers Association (WBWWA). Independents are a big part of the industry. Biggest priority for change is price posting; it is difficult to understand and complex. It is a drain on time to accomplish – can't hire someone else to do it – need to be integrally involved in the business to do it. Doesn't seem to accomplish its goal. It is a time-sensitive, inflexible process. Every change takes 6 weeks to months and sometimes the product is then not available. If the reason is to maintain the 10% markup, they mark up more anyway. Also would like the COD requirement considered. Would like a short-term (7-14 days) credit provision allowable. Texas

uses a blackout so if someone doesn't pay they cannot get product from anyone else. Would also like quantity discounts. Even as little guys, would like to conduct business as we see fit. The system is currently abused – some manage to get around it. Would like to forego delivered pricing. There are some situations when we would like to be able to send a case rather than drive it to some remote location.

- i) Questions/Comments: Phil Wayt – do independents represent mostly wine distribution? Matt: Yes. Phil: Would you agree there is a difference between “post” and “hold”? Matt: Yes, we would like to get rid of both. Fred Hellberg: what is your opinion of how other states regulate? Matt: people who come here to do business find it very difficult. Texas is a difficult, but most others are easier. I would put WA in the bottom 5th for the most complex regulatory. Fred: Do other states have consumption problems that you know of? That is, do our rules keep consumption limited? Matt: wine segment somewhat insulated because of higher priced wine. Not an area that kids try to access. Rep. Conway: All but 1 of the 26 owned by WA residents? Matt: Yes. Conway: How are other states different to work in? Matt: WA is harder – more complex. Conway: Would like to see how the issues Matt listed are handled in other states. Rick Garza: Are prices for wine higher in WA than in other states? Matt: Yes, I believe so. Gene Vosberg: It seems other states do quite well without so many constraints of trade. If what other states are doing does not result in higher consumption we should look at that. Conway: Need to compare to regulated states, and not un-regulated states. Fred: But need to look at unregulated states too to see what their impacts are. Nate: all states are regulated. Perry Park: are we looking at other states' regulations and rules, and have they been identified? Sterling Associates: We heard some state's referenced in interviews and we are looking at a number of criteria related to states' data and circumstances. We will include the characteristics of any states used the research data.
- c) Washington State Sports and Entertainment Facilities Owners Association: Kim Bedier (Executive Director of Everett Event Center and Vice President of WSSEFOA) and Martha Fuller (CFO of First & Goal and President of WSSEFOA). Provide food and beverage on-site at their facilities. How are they affected by the 3-tier system? Impacted especially in prevention of accessing revenue streams through naming rights related to alcoholic beverage companies. (See handout of other states that allow naming rights.) Naming rights does not impact competition or monopolization of one company. All examples where an area is sponsored/named by manufacturer, still serve many different products. They also participate in many education and prevention campaigns. Facilities are very expensive to operate, and are always looking for creative ways to subsidize and not ask for more public funds. Because of WA regulations, we can't take advantage of the funding available. Would like to form a sub-committee and participate to bring information to the Task Force. Most facilities work with concessionaires, who make the decisions of what they buy. And they are excluded from participating in contracts with manufacturers related to advertising. This separates the product available from the pressure of manufacturers/advertising. Tom Carr: advertising is not illegal, correct? (Yes). You are talking specifically about naming rights? (Yes) Conway: how do you select who would get the naming rights? The highest bidder? WSSEFOA: that's part of it. A sponsor would likely propose something and then we would decide. Typically they have a relationship with lots of other states, but can't do it here. Mary Sagawa: I'm confused about what more manufacturers want with naming rights? WSSEFOA: They pay more for naming rights. It establishes a presence for the manufacturer. Jim Halstrom with Emerald Downs: Emerald Downs is also the concessionaire – which puts them under the same rules as all retailers. Have been operating as they always have under LCB rules. Recently now told they cannot do some things they have been doing. Like advertising in the daily program, having a named manufacturer's handicap race. None of these result in exclusion of other products. Customer demand results in what is sold, not who sponsors it. Mike Hale: these presentations are interesting, but I'm jealous of the time spent.

Should stick to written comments. Sen. Kohl-Welles: I like the presentations and it is helpful. Sterling Associates: The logic to allow these particular presentations was because they had requested to be on Task Force but could not; this was the compromise. Not all stakeholders will have access to presentations. Fred: What commercial interest would oppose the naming rights? WSSEFOA: Not aware of who would be strongly opposed to this. The named areas still provide all products. Fred: then probably not objections from other businesses? WSSEFOA: Have worked in other states, and haven't had other businesses object. Mike Hale: The naming issue doesn't seem to have any negative effect on public. Rep. Conway: How do other states handle these issues?

- 9) Change candidate survey results (see presentation 7-10)
- a) Phil: WBWWA's position is that the Costco issues are all on appeal with the courts, and the Task Force should not be acting on them until the judicial system makes a final determination on individual items as well as the state's authority. That said, the price posting system is complex. Post and Hold are two different things. Posting lists prices and must be in effect for 30 days. In Oregon courts found posting illegal. But Oregon still has a "hold". The survey forced a vote on one thing, even though there are two components. Difference in how they would decide on price post vs. hold. Sterling Associates: many of the categories include multiple specific items. The analysis will start parsing apart the issues, and alternatives will also likely include differences.
 - b) Sterling Associates: In the survey, some people did not indicate any "high" priorities, and some applied more than five. The instructions said to try to limit to five, but it was not completely restricted. Final decisions will be limited.
 - c) Mike Hale: This process is a little cumbersome. We could discuss the general principles of a category (i.e. money's worth in general) vs. specific regulations. Need to be practical. Regulations need to be self-enforcing to the extent possible. Aren't always now. But so what? Doesn't seem to have a negative impact on society. Instead of picking five individual items, perhaps we could discuss more broadly. Would rather discuss general principles behind specific regulations.
 - d) Senator Kohl-Welles: Intrigued with Mike's suggestion. Does the survey capture the entertainment industry's concerns? Sterling Associates: yes, there are several areas. Sen. Kohl-Welles: I won't be sure if voting for a certain category captures the issue. Mike Hale: Discussion and decisions should be measured against the 21st century world. Rep. Conway: Would like to know more about each category before the vote. Looking to stakeholder groups to define the issues. Sterling Associates: The list of issues came from stakeholders – from the comments/interviews/focus groups.
 - e) Phil Wayt: Further consolidating the issues would not be good because some would have a different outcome. Also the other question results from the survey need to be considered, such as the societal impacts.
 - f) Gene Vosberg: Agree with Mike Hale, that for instance pricing in general would be worth discussing together. Hard to choose only a few high priority areas. Sterling Associates: You could do that if the Task Force wants, but would mean the research would be less specific and the discussion would be more policy-related than specific to rules.
 - g) Mike Hale: Our focus isn't to rewrite the legislation, but to provide guidance at a higher level. The Task Force could bring a 21st century vision to the LCB. Believes that is the purpose of the Task Force. Rick Garza: Agrees. From the LCB perspective, we are looking for guidance. The LCB has to enforce regulations and don't always have the time to discuss the relevancy of regulations. Sterling Associates: This is a

fundamental decision point. The Task Force needs to decide if the outcome of the Task Force is to provide guiding principles/policy direction or if it needs to provide recommendations on specific regulation changes.

- h) Phil Wayt: We should forget voting and move forward with an ongoing discussion.
- i) Steve Lynn: We have data on the survey that says everything is an issue. There is so much redundancy of control – that is the issue. Where are the safeguards, why are they there, are they still relevant? Like information on the survey about why the regulation is there was the first time I've seen it articulated. The discussion should focus on if the reasons for the regulations are still relevant. Survey document gave context to the regulations. Rick Garza: We don't have unlimited time; we need to prioritize. We may need to extend the Task Force.
- j) Scott Hazlegrove: My experience is that general reports (guidance) end up being "shelf-art".
- k) Carol Owens: Suggest we go ahead with the selection and then perhaps categorized.
- l) Tim Hightower: Didn't we already prioritize with the survey? Why are we doing this again?
- m) Mary Sagawa: Not everyone stuck with only five high priorities. Sterling Associates: And the group had decided at the last meeting that the actual vote needed to be conducted at the meeting.
- n) Lynn Gust: Task Force should bring all information to the legislature; need to discuss all topics.
- o) Phil Wayt: There is not enough time to vote. This is important stuff. We need more time. Sterling Associates: The reason for the survey was to give you time (two weeks) to collect information, get input from your members, etc. The process today is the actual vote on the selection.
- p) Kohl-Welles asked that the legislation related to the Task Force be read. Nate Ford read it.

10) Lunch / priority selection vote

11) Presentation by Bernie Kipp, Alcohol and Tobacco Tax and Trade Bureau (see presentation)

- a) Three major considerations:
 - (1) Fed. Statutes much more liberal than state
 - (2) Chargeable parties for fed violations very different than state
 - (3) Cause and effect nexus required for fed regulations
- b) Task Force member questions:
 - i) Rep. Conway: How does your office deal with our state enforcement system? Response: Our relationship with the Washington State enforcement officials is very good. Important to keep in mind that federal regulations are not involved in intrastate activity.
 - ii) Rep. Conway: The federal government has not been anxious to fund enforcement activity. Response: The Alcohol and Tobacco Tax and Trade Bureau is a remnant of the Bureau of Alcohol, Tobacco and Fire Arms (ATF). After 9/11, the Fire Arms component of that agency went to another Homeland Security. Now the director is anxious to get the alcohol program strengthened, to respond to industry concerns about violations.
 - iii) Shelley Sieveking: The amendments in 1995 were quite significant. Response: True. The 1995 amendments made it more difficult to make a case because of the Fedway Case.

- iv) John Sullivan (attending for John McKay): What “exclusion” issues cannot be addressed through the FTC? Response: The FTC tends to deal with market control, and market area. Under the Federal Alcohol Administration Act, we can drill down to specific retailers.
- v) Greg Hopkins: In 2005, how many investigations did your office conduct in Washington, and how many of those resulted in prosecution? Response: None.
- vi) How have circumstances changed between 1934 and today? In 1934 the concern was manufacturers controlling retailers. Large retailers like the ones we are seeing in today’s industry were not in existence then. We’re seeing a consolidation at the supplier level.

12) Potential Change items selection tally (see selection tally document)

- a) Carol Owen: Would like to see assignment of numerical values to the high, medium, low and no, and get an average.
- b) Kohl-Welles: Would like to go back to notion of looking at the broader perspective. Don’t want to get bogged down in the detail and may lose track of broader public policy discussion. Could be broken into these categories:
 - i) Method of distribution and sale
 - ii) Relationship between tiers
 - iii) Control (enforcement) of promotion & consumption
- c) Mike Hale: Why is there a “no” category? Does that mean we can’t talk about it? Nate Ford: Because some feel strongly that it is not reviewed.
- d) Mary Sagawa: I believe it is not so much a no, as much as what we discuss first.
- e) Mike Hale: **Move** to take the broad categories Senator Kohl-Welles discussed and focus on them, rather than individual specific detail. Let’s talk about aspects of the items versus specific items.
- f) Representative Conway: The categories are just holders for the specific issues. Should figure out a way to give weight to the prioritization of items within each category. Need to decide which group is a priority.
- g) Senator Kohl-Welles: Suggested August meeting discuss method of distribution and sale; September-relationships between tiers and finalize recommendations from first category; October - Control category and finalize recommendations from relationship between tiers. Sterling Associates: If the group can’t get to detail of each category, need to decide which is more important, the principle or the detail. Rep. Conway: We will need to do what we can and adjust the schedule.
- h) Tom Carr: Categorizing helps focus, but does not narrow the scope. We won’t be able to get it all done. Suggest **amending the motion** to at least eliminate the lowest priority items from the vote from consideration. Katie Jacoy: What about weighing them?
- i) Lynn Gust: Uniform pricing is a high priority for three people in the room; we shouldn’t just dismiss it, because seven people don’t want it to change.
- j) Steve Lynn: Many items are linked, so much of it will come up anyway.
- k) Mike Hale: The intent of my motion was to discuss in groups – more efficient. John Sullivan: Can’t talk about price posting without talking about uniform pricing. Tim Hightower: We already have seven

groupings. Why not take them that way? Katie Jacoy: The legislators seem to be looking for overall direction. If putting them in three categories helps, let's do it.

- l) Senator Kohl-Welles: suggest adopt motion of schedule and three policy categories. Maybe have subcommittees to deal with each category.
- m) **Amendment to motion** to eliminate the items in yellow. **NO's** have it by voice.
- n) **Motion** to prioritize by the three broad groups (method of distribution and sale, relationship between tiers, control of promotion and consumption). **Yes**.
- o) Senator Kohl-Welles would like all staff copied on correspondence. Representative Conway suggested House staff can help with research.
- p) Phil Wayt: Need to know what each item is; perhaps an LCB staff presentation.
- q) Senator Kohl-Welles is there interest in establishing sub-committees? Representative Conway: The subcommittee could outline the specific issues to consider within each item. Mary Sagawa: Appreciates the thought of coming in with more information, but Task Force members would have to choose which sub-committees they want to be on to provide perspective, and then that perspective would not get represented on the other sub-committees. Katie Jacoy: There are too many diverse interests for members to divide into sub-committees.
- r) **Action:** Sterling Associates will get started on categorizing items within the three categories and will weight the High, Medium, Low and No priorities.
- s) Adjourned.

- 13) Introductions of Task Force Chair, Members, Sterling Associates and audience.
- 14) Agenda included in presentation.
- 15) Previous meeting decisions (presentation p.3)
- 16) Since June 15 (see presentation p.4)
- 17) Reviewed the legislative charge for the Task Force (presentation p.5)
- 18) Reviewed the Task Force charter (presentation pp. 6-7)
- 19) Purpose of this meeting is to generate discussion about the issues.
- 20) Presentation by Bob Broderick, Independent Grocers representative. (see WFI handout.)
 - a) Rep. Conway: Independent grocers do their own purchasing directly? Difference between large and small retailers, the collective purchasing gets bigger and more national in focus.
 - b) Fred Hellberg: Can you describe the differences between federal and state regulations regarding money and money's worth?
 - c) Bob Broderick – State regulations were designed originally to separate the tiers. Over the years though they've been diluted. For example, today suppliers and wholesalers can provide "entertainment" – a clear change in the intent of tied house; brew pubs are allowed to only serve one type of beer; it's difficult for retailers to distinguish between point of sale versus advertising. Can provide a more detailed answer in a separate email.
- 21) Jean Leonard (representing Tim Hightower) presented proposed language for preamble, from tabled motion from last meeting. The LCB and Legislature have a conflict between supporting wine industry and enforcing. Our focus is on the tied house issues – money/money's worth – it's confusing, frustrating, makes no sense to enforce those regulations strictly. We're suggesting a preamble that clarifies the Legislature has a particular interest in promoting and fostering in-state industries (in a purely non-discriminatory manner.) Not suggesting that the treatment be discriminatory, just remove some of the anticompetitive, anti-marketing attitudes that no longer have a purpose except to help the LCB comply with state laws.
 - a) Phil Wayt: What is the force or role of this preamble? What relevance? (Sterling Associates: It would become part of the recommendations to the Legislature to accompany those policy goals already adopted. This would be the recommendation for the philosophy or criteria the Legislature/LCB should use when considering policy, regulatory changes.)
 - b) Phil: So the preamble would be offered in addition to the Policy Goals? (Sterling Associates: Yes.)
 - c) Phil: It is too early to vote on the language. We have not had enough time to review the language.
 - d) Rep. Curtis: There is far more in this preamble that moves our focus away from other issues. May move away from focus on the economy.
 - e) Mary Segawa: Agreed with Rep. Curtis. There is nothing in the proposed language that has to do with overuse/misuse of alcohol. Prevention aspect is left out. I do not want "least restrictive" – that's where we'll see more youth consumption, over-consumption.
 - f) Rep. Conway: Last meeting there wasn't such a big statement. This has become very long. We recognized that we need to keep in mind economic impacts. That was the notion that guided it. How does it impact the

budget, state revenues, etc.? I like the direction of this, but it's too long. We're setting in motion concerns about what the original goals were.

- g) Jean Leonard: The intent of the proposed language is not to take away from the policy goals at all. We want to send the message to the Legislature: please support our industries, but these regulations are in our way. In promoting the Task Force's three goals, we must not lose focus on supporting our industries.
- h) Phil: Appreciate the goal and reference to economy. The devil is in the details. The economy of beer and wine producers is all that's referenced. There's more to the economy than that. Would recommend adding "and distributors."
- i) Fred: Mary had offered to work with Tim on the language. That didn't really happen.
- j) Tom Carr: This does not accomplish what we thought it would accomplish. Give us time to read and think about this, and rework it. Assess economic impact and promote industry without losing sight of public safety.
- k) Katy Jacoy: Thank you for reiterating the *Granholm* decision that any policies not be discriminatory. Would be helpful to work on language.
- l) Sterling Associates: Jean will work with Task Force members who are interested in revising the language. (Jean agreed)
- m) Nate Ford: Motion has not been taken off the table, so it remains on the table. We'll take up again at next meeting.

LCB Control and Enforcement – Retail sale of wine and beer in state stores

- 22) Sterling Associates: Today we will be talking about two priority items from the first two categories. Next meeting we'll address Mandatory Use of Distributors and impacts of 6823.
 - a) Walk through a little of the background and issue statement. What we heard through interview process is that there are some retailers that the LCB has an unfair pricing advantage in the sale of beer and wine because they do not have to abide by the same regulations. Background (see presentation pp.13-15).
 - b) Sen. Keiser: Were revenues lost? Or was there just a decline in sales?
 - c) Rick Garza: We (LCB) can get that for you.
- 23) Question 1: Does the LCB's approach to retailing wine and beer meeting the policy goals related to beer and wine sale and distribution?
 - a. Phil: Question – a question was raised at the Business Advisory Council meeting last week: Why does the state sell beer? How much beer does the state sell and what types (strong beers, craft beers, etc)? You used to be the only seller of strong beer. How much beer do you sell? Can you supply us with sales data?
 - b. Rick Garza: I believe it is less than 1/10th of 1% of beer sales, mainly strong beer. The Board is looking at the beer sales, and looking at whether the LCB should even be selling it. The Board is considering the impacts of changes. We will provide sales data.
 - c. Steve Lynn: There is not a strong policy driver for the state to be in this arena. There's a whole sector of private industry involved; the state's component is small. The different set of rules is discriminatory. The

state gets to save money by not advertising...it's an expense to a private retailer. The state has a monopoly position with spirits that guarantees a stream of clients. The result is the private retailer is subject to discriminatory practices. The goal is to provide the same playing field, not the sale price. Retailers' costs include advertising, and individual sites for wine storage and so something like central warehousing that the State has is a competitive advantage. Private retailers own a lot more expenses to get to the same price. The state must have a small impact on wine over-consumption since by their numbers they do not retail a significant portion of wine. This goes back to the policy mandate for the state store wine sales.

Convenience? State stores are closed on Sundays. Not sure that is a huge convenience. The only place where it might fit is where small wineries need an outlet. But today most small wineries are actually bigger wineries. What percentage of wines sold in state stores are new Washington wines, and what size of wineries are sold (small, medium, large, etc.)?

- d. Tom Carr: Did you take into account in the impact of state employee training being better than what is provided to private and thus perhaps reducing consumption? (Sterling Associates: No.)
- e. Steve Lynn: If training of private sector staff is not the same quality as state staff, we need to improve the training for the private sector.
- f. Rep. Conway: How many control states have this same set up? Can we see wine sales over last decade? There's an issue of revenue that we need to understand that better. We need more data regarding whether state liquor stores are used to introduce their products to consumers. Do breweries want the same exposure? Would like to know more about that. Want to see a breakdown of in-state versus out-of-state wine sales.
- g. Mike Hale: I'm a small brewer and I do sell beer in the state stores. I look at it as a good model for a chain store. They are a good customer. We deliver to the state warehouse, and they deliver to their stores. So for other small brewers, it may provide the same advantage. Rather than making the state play by the same rules as the private sector, the private sector should be allowed to play by the rules the state stores operate under – a more modern business model.
- h. Sen. Keiser: Given the court's decision that we cannot discriminate against out-of-state producers, is it a problem that the state stores favor in-state products.
- i. Rick: We would need to look at this issue. In state stores, we sell about double the in-state wine than private sector does. Not aware of instate v. out of state beer sales.
- j. Katy: Virginia was sued for trying to sell only in-state wines. In Washington, the state sells a variety of wines, including out of state and foreign products. Let's not remove the state's ability to sell wine in the state stores.
- k. Martha Lantz (AGO): Legal precedent would prohibit LCB from treating in-state producers differently than out of state. Any advantage given ONLY to in-state would be a problem. As long as the same treatment is available to all, there would be no problem.
- l. Rep. Conway: What about size? Can you discriminate based on size? The goal is an economic policy goal.
- m. Rick: We do not discriminate on size. We would make decisions about wine the same way we would with other products. The Nielsen study showed our prices were somewhat low. Our market share has fallen as a result of changes to raise prices, with a small drop in revenues. It has been an avenue in the past for small wineries.

- n. Jean: We stand with Mike Hale. Washington wineries support the LCB be allowed to continue to sell wine, they offer an important venue.
- o. Rep. Curtis: Does the state make a profit on wine sales? Do the private stores sell reinforced wine? What are the demographics of high-octane beer and wine utilization?
- p. Tom: Seattle does not have much trouble with the state liquor stores. But we have occasional issues with convenience stores.
- q. Rick: We do not have a lot of information around compliance with sales staff in liquor stores.
- r. Fred: Sale of wine in state liquor stores does have a strong policy basis. The Legislature has emphasized the support of the wine industry over many years. The sale of wine in state liquor stores – Washington Wine Month – highlights lesser-known wines. Small wineries become big wineries. The sale does meet a policy goal of the state. 7% is very small competitive advantage. The Task Force should include a revenue replacement proposal if we decide to recommend eliminating wine sales in liquor stores.
- s. Katy: Convenience is also another policy goal. We think that discriminating on production size also is suspect under *Granholm*. Production caps will likely be addressed in cases in the future.
- t. Sen. Keiser: I know I've heard from police agencies in previous hearings that there are less enforcement issues related to state outlets than in private retail outlets (underage sales, disputes, etc.). Can we get this data?
- u. Steve Lynn: The ability of state to provide an outlet for small wineries would gladly be filled by private sector, but the competitive advantage of a state store (behaving as a distributor) makes that difficult. The rules should be the same to remove the competitive advantages. Whichever mechanism you chose, make it equal.
- v. Lynn Gust: There is an alternative that is missing. A fourth alternative would be to require LCB to play by the same rules as the private sector. For example, private sector retailers must comply with cash on delivery requirements, but the state does not have to adhere to that requirement. Most the people here are not interested in getting the state out of the sale of beer and wine, but are interested in providing a level the playing field.
- w. Phil: Several people have talked about equalizing restrictions. Be careful what you ask for. The state has a ban on advertising, etc.
- x. Rep. Conway: Larger retailers will not necessarily give the same welcome to small wineries that small wine retailers would give. Our tiered structure was developed when the manufacturer could dominate retailers, now it's the big retailer we are concerned about dominating. What is the marketing strategy of "big box" and large retailers?
- y. Lynn: Fred Meyer has a policy of supporting local industry the best we can, both to support local industry and because it's a good business decision....Washington wines are highly sought after and to walk away from that segment would be foolish.
- z. Rep. Conway: What about very small wineries and breweries though?
- aa. Rick: The Board's short-term policy was to raise the markup from 38% to 43%. Long-term policy is that if the Board's sales grow to 10% or above we would implement immediate price increases to moderate that growth.

- bb. John Sullivan (for John McKay): The LCB will tell the Task Force members a different story in the morning discussion about retail sales of beer and wine than in the afternoon discussion about price posting. In the morning we'll hear more sales are good. In the afternoon we'll hear they are trying to control sales.
- cc. Fred: A number of requests for data have been made so it might be premature to put forth a recommendation. What would be the impact on Washington wineries if the state got out of the sale of wine?
- dd. Steve: And what capacity would that generate in the private sector?
- ee. Mike Hale: I **move** to propose a fourth option that whatever rules are eventually adopted are equitable for both retailers and the LCB – that they are consistent. Pick the good rules and eliminate the bad rules. **“New rules as adopted would apply to both the state and private sector.”**
- ff. Rick: Would you impose the same restrictions on private sector that we'd impose on LCB?
- gg. John Sullivan: Second, with the understanding that the selected rules do not disadvantage retailers.
- hh. Phil: This is absurd. This body is not under any mandate to recommend changes to the legislature. Nor is the Legislature under any mandate to make changes. These issues are on appeal.
- ii. Tom: We're an advisory body. We should look at fundamental fairness, but I'd like to know what that looks like? Can Sterling come up with a scenario of what that would look like to blend those systems?
- jj. Lynn: This is not an all or nothing discussion. We do not need to adopt one set of rules for all.
- kk. Rep. Conway: The motion is too general. We have a good analysis in the issue paper, and we can look at the different impacts of the constraints. There is no significant opposition to the question of whether our state should be in the business of selling wine and beer. The question becomes, if the state is in the business, what would be some of the rules that would allow the small and large retailers to participate on more equal footing with the state? Are there changes needed in the rules to compete more fairly? If so, which constraints are you most concerned about?
- ll. Katy: Agree with Rep. Conway. Also concerned about Phil's statement that the discussion is ludicrous. We're here to consider everything.
- mm. Steve: Rep. Conway is right. The focus is – how do we compete? How are we advantaged or disadvantaged in our work? Our business models are all different, but we're all selling the same product.
- nn. Fred: I think we'll get to Mike's concern as we go through each of the proposed regulatory changes that we've outlined. That's the way to address the problem is through the specifics.
- oo. Nate: **Motion vote.** Whatever rules are proposed are adopted for both. **Motion failed.**

Sales & Distribution

- 24) General pricing strategies (presentation pp. 24-25)
- 25) Price Posting and Hold (pp. 26-30)
- 26) Does price matter? (p. 31)

- a) Steve Lynn: Price does matter at a gross level, but how sensitive is it? Where is the line that actually makes the difference? We're concerned about *how* we use the price, not that it does not matter. Is it the best use of resources to focus on price so much?
- b) Mike Hale: Price does matter. Free beer is abused. But there is cheap alcohol out there now. There is 17% beer out there in the market now. Standard microbrew is 4%. Are the rules accomplishing eliminating availability of cheap alcohol. No, it's out there. Cheap high-content alcohol's purpose is for getting drunk.
- c) John Sullivan: The question is whether driving up prices to normal consumers is effective in preventing misuse? Second, the state should raise prices through taxes. Revenues from taxes that can be used for prevention, etc.. Currently the benefit from rules to keep prices artificially high goes to the distributors.
- d) Rep. Curtis: We do not charge enough for high-alcohol products. Should charge more on those products rather than having price controls on products that are generally used responsibly. There are two demographics – sales to responsible consumers, and those who create problems (high alcohol and cheaper.)
- e) Fred: Do other states have post and hold? (Sterling Associates: We have not done a full 50-state survey. Have contacted a number of states. There is no consistency. Every conceivable combination, no standard model.)
- f) Fred: Has there been a review of prices on states that have it and do not have it? Does it make a difference? (Sterling Associates: other states we have talked to do not have studies showing impacts of changes.)
- g) Phil: Tennessee requires a 350-day hold, Idaho hold of 180 days, Oregon price posting eliminated but does have a 14-day hold. Oregon also has reporting requirements.
- h) Sterling Associates: Oregon responded that they have not done any studies, but have not had problems with pricing violations.
- i) Steve Lynn: If other states removed the post/hold system, what prompted changes in other states? Did any state implement the post/hold that didn't originally have it?
- j) Katy: Most changes were in response to court decisions.
- k) Gene: Are other states having issues where they have changed or eliminated price posting/hold requirements?
- l) Phil: Price post and hold requirements are tools for controlling the system. May not in itself have a direct impact, but one of many tools.
- m) Katy: But it is a tool that is not working, or cannot produce proof that it is working. Hard to decipher all the various state's rules.
- n) Phil: There is a court case at play. Why are we discussing it? If the ruling holds, price posting requirements go away. If it is invalidated, it can stay. There may be a better way to do it. If we're having this discussion at all, we're saying the judge was wrong. We should wait for the appeal process to play out.

- o) Rep. Conway: Has New York made any changes to price posting (PP)? The issue paper mentions that a benefit is predictability of pricing to a business. Is that correct? Does it give businesses an understanding of prices that is helpful to them? Do what degree does it support stability of prices and benefit business?
- p) Linda Parlette: What is the value of transparency in PP?
- q) John: if stability and transparency is an objective, why is it singled out for alcohol only? The genesis was for the protection of distributors, not for retailers or consumers. Whether or not the court case exists is beside the point. The question is: is price posting a good policy or not? This body should still be addressing the question of whether it is good policy.
- r) Perry: Price posting does provide predictability and stability and it does help to identify the trend of pricing.
- s) Steve: In small a wine shop business there are advantages and disadvantages. Distributors provide catalogs monthly with prices, except bundled prices. Do not have visibility into bundled prices. Many of their wines are vintage (expire on a yearly basis), and prices do not vary month to month, but do change yearly. Big distinction among beer, box wine or premium wine. Beer and box wine prices do not change that much.
- t) Gene: Alcohol is the only product that is regulated. Price posting keeps price artificially high.
- u) Rick: This is a frustration of the LCB. Price posting is only one of many regulations. The LCB's frustration is its lack of ability to demonstrate the effect of regulations. The state needs impact measures. Now, we do not know for sure. It seems logical that price has an effect, but there is no direct information on impacts.
- v) Mary Segawa: Prevention community has studies that show price does matter. Cheap stuff isn't the only product that gets people drunk and causes problems. Why regulate alcohol? Eating too many apples does not have the same effect as drinking too many beers.
- w) Fred: What are the impacts of price posting violations?
- x) LCB: If do not meet the deadline, cannot sell the item. If already posted, and do not meet deadline to change, the price stays the same.
- y) Steve: Agree that alcohol is a different commodity. Selection in the state is hampered by price posting requirements – especially from other state's or foreign imports. Many state's do not have the time requirements and some manufacturers sell it elsewhere before it could be sold here.
- z) Conway: Does price posting prevent price wars?
- aa) Mike: Price wars do exist. They move slowly, but do exist. Recently a brewery went bankrupt due to aggressive pricing wars. Does not prevent cheap alcohol and does not prevent price wars. Just business as usual with a lot of paper work.
- bb) John: It does not control prices directly to general public. In California, the lack of price posting for wine has not created misuse issues. The state still requires posting for beer.
- cc) Rep. Conway: But if it's required for beer, there must be a problem.
- dd) Mike: The lawsuit was over wine only so that's the part that got changed.

- ee) Rep. Curtis: Cannot really answer the question if price matters and if price posting directly makes a difference. We need more facts. We should not change something without knowing what the impacts would be. The issue needs much more study.
- ff) Rep. Conway: It is the legislature's work to gather and assess data to make changes.
- gg) Katy: How does price posting support efficient collection of taxes?
- hh) John Sullivan: Tax is based on quantity not price, so what difference does it make?
- ii) Sterling Associates: Heard from LCB it provides an audit trail.
- jj) Phil: There is an excise tax based on quantity, and also sales tax at the retail level.
- kk) Lynn: It is difficult to see how price posting in any way supports efficient tax collection.
- ll) LCB staff: Price posting is a backup system to see if someone has paid their taxes – a cross-check. If someone has not posted their prices but are selling to retailers, raises a flag to see if they are paying their taxes. It is hard to post a price without paying taxes. If not posting, can lead the LCB to other avenues to look at.
- mm) Rep. Conway: Need to look at more data related to taxes. A number of government programs rely on tax revenue. Cannot abandon something that would do harm to tax collection. Cannot just say it does not meet the policy of efficient collection of taxes without seeing more data, particularly from the Dept. of Revenue.
- nn) Mike: The federal government also collects tax on quantity. They do not use price posting and they do not seem to have a problem with collecting taxes. They use an audit approach. Having price posting in place does not affect cheap prices, nor does it affect tax collection (if fed's do not need it). Why call for more studies?
- oo) Rep. Curtis: Producers pay liter tax, and consumer pays retail tax? The Task Force should get a break down of where the taxes go.
- pp) Phil: No, beer and wine excise tax is paid by distributor. With new law on shipping, out of state manufacturer can ship directly to retailer, but must act as distributor and pay the tax.
- qq) Rick: If price posting is not used, how do we know if manufacturers are selling at appropriate prices? i.e. 10% markup?
- rr) Mike: Today manufacturers post their prices, but not their costs – so you do not know that now, except by annual audits. So audits are done anyway – just use that mechanism.
- ss) Jean: Washington wineries have been able to act as distributors for a long time, and have been paying taxes.
- tt) John: Have the staff really checked to see what a manufacturer's production cost is, and therefore if the 10% markup is happening?
- uu) Phil: The Task Force should not be discussing court issues.
- vv) Rep. Conway: We need to have the discussion to be ahead of the ball not behind it. We need to use this time to get an understanding of the issues, we need more data. What have other state's found? Also need to know what the orderly market affect is on small business. We have a vital manufacturing

community and a vital retail business. Want to understand the impacts to these businesses, and not affect jobs, just to get a better price for the consumer.

- ww) Steve Lynn: We cannot answer yes or no on any of the policy questions.
- xx) Jean: It is difficult to look at just the price posting alone without discussing the other items related to other pricing issues. If we do not move forward on the other questions, we won't move forward at all because they are interrelated.
- yy) Mary: There is no one policy by itself that prohibits misuse. The system as a whole needs to be considered. It is difficult to separate items and the research cannot separate either.
- zz) Steve: But too much redundancy creates a restrictive business environment. The question is which regulations are most effective and how could the goals be accomplished better without such negative impact on business?
- aaa) Fred: Consumers may be affected by price posting. We have heard it can impact variety and selection, since some manufacturers do not want to participate.
- bbb) Rep. Curtis: May have redundancy in controls, but won't know until we look at the whole picture. Need to make recommendations at the end after looking at all the issues. Could have unintended consequences if make individual decisions.
- ccc) Jean: What information/data does the task force need?
- ddd) Rep. Curtis: The discussion triggers information requests.
- eee) Suzanne (for Carole Owen): What would happen to the distribution of taxes if the tax revenue is impacted? Particularly to prevention?
- fff) Fred: Have there been a lot of price wars in California or Oregon where they have eliminated pp?
- ggg) Phil: Good idea to get tax distribution information on beer and wine.
- hhh) Rep. Conway: Why is the markup 10%? What do other states do? Why 10%.
- iii) Phil: That was set years ago, and it was arbitrary as a floor.
- jjj) Conway: If it were dropped to 8%, would it help consumers?
- kkk) Katy: No. Typically product is marked up more than 10% by distributors and retailers.
- lll) Steve: Everybody is marking up more than the 10% minimum.
- mmm) Phil: minimum markup is part of the suit. It's on appeal.
- nnn) Mike: **Motion:** to recommend eliminating Price Posting and Price Hold, because it is not effective to reduce the price of alcohol and may not be effective in tax collection. John 2nd. Six for, 10 opposed.
Motion failed.
- ooo) Phil: Post and Hold are two different things. Like Oregon has no posting, but have a price listing, and do have a hold. They need to be separated. If vote for this, you are assuming the judge is wrong because she already invalidated.
- ppp) Fred: How so?

- qqq) Phil: Because assuming the state has the authority to regulate on this topic.
- rrr) Fred: Then why are we here?
- sss) Phil: Good question.
- ttt) Gene: Whether the court decision holds or not, there is still a need to discuss these issues.
- uuu) Tom: We need a lot more data, particularly information from other states.
- vvv) Mary: Agree with Tom, and we should not make decisions on one item individually, out of context with other regulations. Need to see it in context of discussion with other items.
- www) Phil: Would vote for motion to eliminate price posting and shorten hold, but not eliminate both.
- xxx) Lynn: Why is hold a “necessity”?
- yyy) Phil: Price hold is one of the LCB tools to check prices as enforcement tool. The 30-day hold allows retail trade to take advantage of current pricing structure, for consumers they know prices will hold for 30 days.
- zzz) Fred: I am inclined to vote for some modification, but am concerned about lack of data related to price wars. Have not seen a lot of evidence that this does what it is supposed to do, but if there are price wars in other states, could see how it makes a difference.
- aaaa) Linda Parlette: This is a valuable discussion. But we cannot make decisions in a vacuum without knowing all the interrelationships. We are still getting educated.
- bbbb) John: The concept of price wars is curious. The state had opportunity to put up its defense at trial. Price wars were never mentioned as an issue. The issue paper did not mention price wars. There is no evidence whatsoever that the elimination of price posting will cause price wars. Low prices for extended time is not tenable for a business. It would not happen.
- cccc) Rick: If it is not shown that eliminating price posting will not have an adverse affect, the LCB may be in favor of deregulating some areas. But we need to show it does not have an adverse effect.
- dddd) Katy: I have a different perspective. There is no proof that the tools have accomplished what the state says they accomplish, so why keep them when there is a negative impact on business?
- eeee) Tom: What about the info on where Washington is in the consumption rates?
- ffff) John: What about incidents of abuse? Believe Washington may have more than California.
- 27) Task Force members agreed to add discussion of money’s worth and ownership issues, and potentially another meeting.

A summary of data requested by Task Force members during August 3 meeting. Sterling Associates will work with the LCB and others to gather the requested information, to the extent they are available. (Please note some information may not be available.)

LCB in Beer and Wine Retail

1. Quantity and \$ amount of LCB beer sales? (Conway)
2. What % of WA wines in LCB stores are new wineries? (S. Lynn)

3. What do other control states do related to selling beer and wine? (Conway)
 - [Do they sell beer and wine in the state stores?]
 - [What is the volume/market share?]
 - [What are their pricing policies?]
 - [Do they limit market share or prices related to private retailers?]
4. WA data for past 10 years on beer and wine sales and market share, including WA wine/beer vs. other manufacturers? (Conway)
5. Can state stores favor in-state products? (Keiser)
6. Lawsuit in VA related to exclusive or preferential treatment (K. Jacoy and Keiser)
7. Sales information on reinforced beer and wine? [Curtis] (private vs. state stores)
8. Data on enforcement/arrests for violations in state stores vs. private retailers (Keiser)
9. State *revenue* difference (not sales) since 2005 wine markup to 43%? (Keiser)
10. Breakout of beer/wine revenue and taxes – where they go. (Keiser/Conway)
11. Any data that would support the price differentials, that is where the price actually makes a difference in misuse and abuse? Is there really a difference between 38% and 43%? (S. Lynn)
12. Impact on WA wine/wineries if LCB does not sell wine? (Conway)
13. Information on states' consumption (T. Carr)
14. Information on states' costs associated with abuse (Sullivan)
- Price Posting and Hold
15. Impacts on prices resulting from elimination of price posting in California and Oregon. (e.g., price wars) (Hellberg, Conway)
16. Minimum mark ups in other states (Conway)
17. NY experience with price posting (Conway)

18. Introductions of Task Force Chair, Members, Sterling Associates and audience.
19. Agenda included in presentation.
 - a. Minutes from previous two meetings (June and August) adopted.
20. Previous meeting decisions (presentation p.3)
21. Since August 3 (see presentation p.4)
22. Reviewed the legislative charge for the Task Force (presentation p.5)
23. Reviewed the Task Force charter (presentation pp. 6-7)
24. Purpose of this meeting is to generate discussion about the issues.
25. Mandatory use of distributors discussion:
 - a. Phil: I would like the state to be able to track quantity shipped from out-of-state.
 - b. Shelley: Is there an estimated number of retailers that are expected to request out-of-state direct shipment endorsements? Lorraine Lee: In its fiscal note, LCB estimated 10% (1200) retailers would request the license. To date 51 have been requested.
 - c. Mike: I represent an in-state brewer that has had the right to direct ship for some time. It is a very important privilege for small brewers; distributors don't always want to deal with small quantities. We also use distributors when it makes sense. One aspect of the law restricts ability to self-distribute which is the prohibition on a central warehouse. It would be helpful if a brewery could deliver to a central warehouse for a store chain, versus every single store location. Small, in-state brewers are an example of the need to be able to self-distribute. Allowing central warehousing would not negatively impact manufacturers, but it may impact distributors – at least they are fearful of losing business. However, manufacturers would likely still use a distributor to deliver to a central warehouse. Question of central warehousing is a key element to this discussion.
 - d. Phil: Central warehousing is part of the Costco lawsuit which is on appeal. Also I take exception to phrase “mandatory use of distributors.” In-state manufacturers have had ability to self-distribute for some time. There is no mandatory use; manufacturers may be compelled to use distributors, but not mandated.
 - e. Fred: question for clarification – retailers can use common carriers but manufacturers cannot. What was the rationale for that?
 - i. Lorraine Lee: The LCB's original proposal for 2SSB 6823 was to allow common carriers and central warehousing. Through the legislative process, those were taken out. Manufacturers (when acting as a distributor) and distributors must use their own employees, therefore cannot use a common carrier.
 - ii. Rick Garza: The logic was that if the state is allowing a manufacturer to self-distribute, then must SELF-distribute, not use a common carrier. Currently allowing self-distribution means manufacturer acts under same regulations as distributor. A common carrier introduces a third party.
 - iii. Fred: But a retailer can use a common carrier – so a third party is being introduced anyway. There is an inconsistency in that train of logic.

- iv. Phil: There is control involved with the retailer arranging the delivery. More control if retailer arranges the shipment to where it is supposed to go.
 - v. Steve: The bigger inconsistency is that wineries can ship to individual consumers. That is inconsistent with the other logic. Why did the common carrier use by manufacturers come out? Rick: because it provided the most equity to all parties to follow the same rules. Shipment to individuals is a very small segment of the market.
 - vi. John: The inability to use common carriers is a real obstacle, and all the various rules are confusing. The use of central warehousing is key. It is virtually impossible to self-distribute without it, and with all the paper work – every individual store has to report separately. It's not practical.
 - vii. Tim: Preventing the wine industry from using a common carrier means they have to drive it themselves or use a distributor. The compromise happened because there was going to be a cap on cases delivered which the wineries didn't want. The distributors agreed to take the cap off if common carriers would not be used by manufacturer. The ability ship wines for small wineries would be desirable, but the compromise was that they could at least have self-distribution.
 - viii. Katie: The compromise meant the in-state manufacturers didn't lose what they had (the ability to self-distribute).
- f. Rep. Curtis: What was the comment that “every store has to report”? John: Any direct shipment received has to be reported by the individual store. Lorraine Lee: If they have a license to receive shipments, each store has to report every month – whether they have received a shipment or not. This is to facilitate cross-checks for tax purposes. Katie: And manufacturers have to send a report every month for direct shipment.
- g. Curtis: What stops someone from warehousing? Lorraine: delivery needs to go to the physical location where it will be sold. A retail outlet can hold product. They cannot hold in a “central” location and then distribute to the sales location.
- h. Mike: The state has right to centrally store product. The state keeps records. The same thing could happen elsewhere. There is already a model.
- i. Gene: I have a question on retailer endorsement and reporting – how difficult is it for retailers to report? Lorraine: Currently, the LCB has a paper form. We're working on an on-line reporting process, hopefully to be on line by end of June 2007.
- j. Rep. Curtis: I'm worried about the quality of the controls. Phil, how does the current system ensure that consumers are served? Rep. Curtis: How does direct shipping work for beer? What is in place for quality assurance? Since distributors sometimes take product back?
- k. Phil: There probably won't be any direct shipping of beer, not in volume, because it is perishable. But if central warehousing were allowed, self-distribution may be used for beer and quality control could become an issue. Product could be coming in on an unregulated basis to any number of warehouses, with product going out to who knows where – could be going out to 25 different stores. Beer is perishable – would be difficult to track for quality control.

- l. Mary: A lot of discussion about what is easier for business, but what about tax collection and protecting against public harm? How do we ensure that no matter what changes are made, that all businesses comply?
- m. Phil: If product expires or is received in unsaleable condition, the retailer can return it. What conditions: Ordered in error, or if the product is unsaleable. Lorraine: Out of date beer can be replace with identical like product.
- n. Tim: Quality issues are the manufacturer's responsibility. If they are concerned about the product, they would need to control it. I think the quality issue is a moot point. To Mary's point: we should be considering those issues. Double reporting addresses the tax reporting control. (Although if a manufacturer doesn't make a shipment, it shouldn't need to send a report.) That leaves under-aged drinking. Enforcement and training for servers helps address the abuse issues.
- o. Lynn: The ability to central warehouse would make tax collection easier to manage – if that site reported, rather than each individual store. Already report on tobacco products centrally. It seems like the same model could be used. This reporting for retailers was not required before 2SSB 6823, for in-state manufacturers. Seems to be a penalty for the ability of out-of-state manufacturers to self-distribute.
- p. Steve: The regulations should pertain to an ability to do something, not about the quality. It is a red herring and should not be an issue. Reference to quality is not included in any license. For tax collection: there is power in positive documentation – the need to report even if shipment not received. But should be an easy way.
- q. Rick: Whenever change the flow of alcohol, would need to create a license and system to control the flow.
- r. Shelley: from Anheuser Busch perspective, we would not want central warehousing. We would be concerned about quality. Distributors have a contract with the brewer and have to pay attention to quality; distributors have a commitment to the brand. Retailers are all different as to quality control and may not have the same commitment to a specific brand.
- s. Rep. Curtis: So, currently the distributor takes care of expired product and changing out, etc. If retailers use a common carrier, retailers would be responsible for sending it back or throwing it out – which would then be an issue for consumption and abuse – if a retailer throws out and someone finds it. The ban on central warehousing serves a control purpose then.
- t. Phil: There are lots of requirements for distributors related to quality.
 - i. Rep. Conway: what about economic health of wineries and breweries related to central warehousing? If central warehousing was used, would it be positive to those industries or negative? Because currently there is a retail dominance because of the size of retailers. Would it be better for wineries and breweries?
- u. Phil: Allowing central warehousing would be devastating to economic viability of the distributors he represents. When you consider the economics of the beer and wine industry, you must also must consider distributors.
- v. Gene: Speaking for restaurant industry – some were interested in central warehousing, but a minority. Mostly larger restaurants.

- w. Rep. Curtis: Gene, which restaurants? Gene: mostly large locally owned restaurants would want central warehousing.
- x. Lynn: If there is the ability to have central warehousing, manufacturers would not be forced to deliver to a central warehouse, if they are concerned about quality.
- y. Katie: CA allows central warehousing. Have a vibrant wine and beer industry, and distributors. Central warehousing can't mean it will be the demise of distributors or that quality is bad. Can we ask CA if there have been problems or complaints?
- z. Steve: Central warehousing may shift jobs, but I question whether jobs would be eliminated. Central warehousing is not a big advantage for small independent specialty shops.
- aa. John: To address Rep. Conway's concern about bigger retailers taking over. The number of retailers is growing. It's distributors that are consolidating. There is a concern that manufacturers can't always get a distributor interested in smaller quantities. If had a central warehouse ability, could get the product and then distribute small quantities.
- bb. Fred: I definitely would like more information about impacts in other states. Comments seem to be speculative, not based on data.
- cc. Rep. Conway: I have been hearing from producers that the number of buyers is shrinking, because retailer numbers are shrinking. Concerned about how any changes would impact the access of wineries and breweries to consumer markets. I work in the industry and know we have lost lots of independent grocers. How do we ensure that we sustain the economy for producers? We need to understand how any changes would impact them.
- dd. Rep. Curtis: If there is a need to track what happens to product that is bad and not using a distributor, we would need even more reporting – wouldn't that be more work and not help achieve any gains from central warehousing?
- ee. Mike: Shrinkage is not occurring in retail outlets. It is occurring in distributor tier. And it's hard to get attention of distributor as a small producer. I can get attention of retailers willing to sell it. The reduction of distributors is more of a problem. The issue of throwing out beer into the dumpster is not an issue – it wouldn't happen – it's too expensive. Producers can't negotiate quality items with distributors, they do not have enough clout – it's for big manufacturers.
- ff. Katie: CA has not seen any price wars that we know of. It's still illegal in CA to sell below cost. Even "Two-Buck Chuck" doesn't affect prices – no one else is lowering prices to chase something like the Two-Buck Chuck.
- gg. Phil: CA is just relative to wine. Still have price posting for beer. May need to look at products separately – beer and wine are different.
- hh. Jill: We have highlighted the potential options for consideration (see presentation p. 17). These options will be helpful later when considering possible changes.
- ii. Steve: We're moving away from physical three-tier, but the process is still occurs in 3 tiers. The issue is who gets to play in which tier, and that is changing. The regulatory requirements basically remain and apply to whomever is filling the role.

26. Overall policy goal preamble discussion: Tabled until next meeting. Tim Hightower will coordinate a conference call to discuss language.
27. Additional information distributed by Lorraine regarding impacts of 2SSB 6823 – chart showing how many licensees have applied for direct shipment endorsement.
- a. Phil: Is it an endorsement? Lorraine: For retailers its just an endorsement, no fee.
 - b. Fred: Are these just wineries or breweries too? Lorraine: All, but primarily wineries have applied.
 - c. Fred: When did law go into effect? Lorraine: April, but we had time for implementation so effectively started in July. Note that COA Authorized Reps and Importers are not able to use this authority.
 - d. Posting requirements apply.
28. 2SSB 6823 impact discussion:
- a. Kim: The purpose is to get your thoughts about what impacts need to be measured. 2SSB 6823 directs the Task Force to assess the impacts, but clearly you can't given that it just started. So the LCB will need to be able to measure the impacts so they can report back to the Legislature. We broke down the bill into various components, and offer some potential impacts and measures to consider. Some measures apply to multiple items.

#1:

- b. Rep. Conway) I think we need to track the volume percentage? What is the size of the shipment, how has that increased?
- c. Fred: Can we track impact on quality of product?
- d. Does “increased selection” mean increased number of brands? Yes. Lorraine Lee: It also includes new manufacturers supplying in state.
- e. (Kim walked through all the components as broken down on the slides.)
- f. Nate: #6 – “domestic” refers to “in-state” manufacturer.
- g. Fred: Societal impacts – we need to start targeting these impacts. Broad measures such as numbers of DUIs are so broad that it's hard to relate it to this particular change in the law. Is there a way to target to only those participating in self-distribution or something? To get very targeted?
- h. Rep. Conway: We'll need to know more about the manufacturers choosing to use this option, who are they? Why are they using it? Are they large chain restaurants or small restaurants? Where are they located in our state? Is this a border state issue? (Location & Type of entities).
- i. Tom: Use of DUIs as a measure is questionable. This stays flat every year because it is driven by the number of arrests that can be made (so it's limited to the number of police officers available.) No really good measure to use instead. Detox admissions maybe. Can't link to the ability to self-distribute.
- j. Tim: Licenses issued are shown here. Isn't it more relevant to see which retailers (and what types of retailers) are using the license? Rep. Conway: That's why volume would be important. Tim: I don't know how you can determine whether the product has been shipped in from out of state.

- k. Pam Darby (representing Carol Owen): The volume question is a good one.....is per capita consumption going up? That might be a good indicator.
- l. Kim: There's a lag time in that data. The data that we have been able to get is from 2003. May be too long a lag to report back to the Legislature.
- m. John: It would be really tough to extract any good data. I'd be shocked if self-distribution will even reach one percent in the next year or so. Very tough to extract anything useful in that short a period and with those small numbers.
- n. Sen. Parlette: These measures are beyond the intent of the bill. Bill is very focused and only asks to look at the impact on distributors.
- o. Fred: If that's the case, maybe we should be contacting the entities who have chosen NOT to participate and why?
- p. Steve: We would then would focus only on the negative impact (since distributors would only care about negative impact.) If that's the case we only then need to track the volume in the distribution stream.
- q. Mary: It may be beyond the legislation (which was limited to who was at the table), but I think we also need to also look at the unintended consequences.
- r. Sen. Parlette: Then it would be good to have our staff respond, since they drafted the bill.
- s. Phil: It was not our understanding that the impacts to be assessed would only be the impacts to distributors. Our concerns go well beyond the impact on distributors. We, too, are concerned with the unintended consequences.
- t. Rep. Curtis: The language in the bill seems to be beyond distributors to include producers, retailers, and consumers as well.
- u. Rick: Looking at survey price may give us a good insight into consumption (if we all agree there is a relationship between price and consumption.)
- v. Tim: The reason the wine institute filed an amicus brief is that if we get rid of self-distribution it will have a big impact on our industry. So we also need to look at the positive impacts on our industry of having this authority in place.
- w. Kim: So, should we include the number of wineries that use this method?
- x. Tim: A great number of wineries (particularly smaller wineries) use self-distribution. It's an essential tool for Washington wineries.
- y. Fred: The level of data analysis and collection capacity assumed in this bill is very high. Can we assume there will be resources available to do this?
- z. Rick: LCB has a proposal into the Governor's office to support the impact measurement activities.
- aa. Fred: We should have a proposal in our report that supports providing the resources needed to collect and analyze impact measures.
- bb. Shelley: Are these entities [that have applied for direct shipment endorsements] new suppliers to the state of Washington? Lorraine: We don't know yet. (And to date only one brewery from Oregon

has applied. All others are from wineries.) A lot of the matching up and double reporting targets one segment, but misses those that are not reporting at all. I have no solution to offer, but throw out to task force to determine whether there is a way to examine this. It seems like there would be less likelihood of detection.

- cc. Tim: The risk is there now.
- dd. John: The risk applies to manufacturers shipping to distributors, as well.
- ee. Lorraine: The issue is the number of licensees involved. Right now there are 50, but could have hundreds. Then the risk potential increases that there could be more problems with reporting. We know that there is a difference between out-of-state and in state entities complying with our reporting requirements already. Out-of-state entities are more often late with their reporting.
- ff. John: I think the quantities we're talking about are very small. So perhaps a volume amount, and relative what that is to the total amount would be very helpful to know.
- gg. Rep. Conway: What's coming into the state and what's going out? That's what I'm concerned about.
- hh. Richard Curtis: The distributors are audited. Are retailers still audited? Lorraine: That is the plan. This is a new function for us. We don't know a lot of the information; we don't focus our enforcement efforts there now. Part of our request is to build up our enforcement and audit staffs to do these. We don't know what the change will be, for example, is a grocery
- ii. Curtis: So there are two reporting systems now that the LCB has a responsibility to audit. And then we need to compare the cost of auditing.
- jj. Rep. Conway: Might want to look at what the other states that allow this are doing. When did they implement and what's been the impact.
- kk. Katie: Didn't the LCB get a \$1.+ million to implement this bill? What is that being used for? Any of it going to tracking measures?
- ll. Rick: As we look further along, we have the ability to redirect resources.
- mm. Lorraine: Part of the money was to fund the electronic reporting system; part of it was for this effort.
- nn. Shelley: Does anybody know whether carriers can/do report diversion and theft? Is that a capability of their system? Carriers should have ability to report.
- oo. Lorraine: We don't license common carriers for the purpose of carrying alcohol. At least one other state requires a common carrier to hold a license to allow the state to have enforcement tool/authority (that gives the state the ability to pull the license.)
- pp. Phil: That is one of the elements we thought was missing in the direct shipping debate. We advocated the licensing of the common carrier. At some point in time when the Task Force gets to some kind of recommendations we may want to consider this.
- qq. Mary: We agree that is a big concern.
- rr. John: Maybe the recommendation is: If there is no requirement to report a missing shipment currently, someone should have the responsibility for reporting (internal theft is an issue as well.)

There should be requirement to report at any point in the chain, there should be a requirement to report that missing product.

29. General impact discussion:

- a. Rep. Conway: We need data. Somewhere we need to be gathering the data. Is the LCB looking for a recommendation from the Task Force to support this? In the Alcohol Impact Areas we do have some measures of the impact of sales of alcohol. Those are being monitored. In the quest for data, this is a big issue for the Legislature as well in getting good sound data. It's hard to see the data in what we're being given. If the courts are getting involved, there is need for agreed upon, scientifically based measures. We'll have to convince the Legislature of it's import. Would the funding come from revolving fund? Rick: Yes
- b. Shelley: Seems like a good thing to aspire to, but seems huge. Our discussions show how complex the layers of the onion are? Is this a response to the court's desire for data? It doesn't sound like it.
- c. Kim: No, we heard there aren't even baseline measures being collected now. Right now they may not have "before" measures, so it will make impact assessment difficult. The LCB needs to start collecting data that can be reviewed, over time, to see where impacts are being felt. There's a much greater emphasis in government today to have data-driven decisions.
- d. Sen. Parlette: In the suit, what data did you have available to present?
- e. Lorraine: Experts agreed that the system keep prices higher and general agreement that if prices are higher you have less abuse. Both sides had economists and health economists. We had information, the judge however was not persuaded. We could not show how each regulation impacts abusive consumption. We were not able to quantify impacts or define an "acceptable level." Chart on slide 31 shows the complexity of making those connections. The Judge said, well if you're concerned about prices being too low, just raise the taxes.
- f. Fred: A major problem with these types of efforts is trying to come up with measures of how well the current system meets its goals. Alcohol continues to be a defining issue in this state. Future debates will end up in the same political compromise mode for decision making unless there is a set of reliable base data to make decisions. So, in general, I am very much in favor of the proposal put forth here to begin the process of collecting data.
- g. Steve: The surveys of the 50 states demonstrate this is clearly a multivariate analysis, no clear correlations. There's a lot of personal preference, and redundancy built in, to really analyze. So the debate still will come down to a value-based set of parameters.
- h. Rep. Curtis: I support the free enterprise system. The issue becomes that if the free enterprise system fails, then we have a high social cost. My concern is that I don't want to make decisions on subjective information. We have one side saying one thing, and the other side saying something else, with some scientific data on both sides. So, can you design a study to get the information you want/need? To make changes to a system without being able to know the unintended consequences is difficult. The more information we can get the better.
- i. Rep. Conway: I support this proposal. But I think there can be other ways of gathering the data....national organizations, cooperative efforts, etc. Data is critically important however. A lot of

the country is watching what this task force is doing. We have a responsibility to make the right judgments, based on objective data.

- j. Katie: Having impact measures is important and what Rep. Conway is talking about are the impacts of 6823 we need to identify which are the important measures for that. But you're right, we are at the cutting edge. I have concerns about the breadth of these impact measures. The record in the case is set. There won't be opportunity to add to that. I wonder about the timing, not about the need.
- k. Rick: This is much more than the pricing controls. This is about the whole system we use to regulate alcohol.
- l. Sen. Parlette: Most states belong to NCSL. We can use them for assistance. If every state chair and ranking member could encourage the significance of this. I don't think it's up to the state of Washington to collect all this data. NCSL could help, and could offer something positive.
- m. Mike: There are ways around mandatory distribution in California. What type of data? I know free beer encourages consumption. Even using our whole regulatory system, cheap beer is sold in this state. If we say that price is important, we need to say where that price point hits and that's an impossible conundrum. If we want to influence alcohol abuse, we need to focus on the individual, not the regulatory system.
- n. Steve: I strongly believe and value data. I also understand that specifics matter. How much will we collect to do what, what is the granularity? We need a values-based approach with boundaries placed around it. It doesn't require a ton of data, but it requires data with more common sense. I agree there should be more fundamental data, but where that data collection is focused will be the key. Focus on reality, a systems approach has complex boundaries. The incremental approach is not working. More data is not the problem. Values will fix the issue, and working off your values (includes jobs, economic development, consumption, etc.)
- o. Sen. Kohl-Welles: I'm in agreement with Rep. Conway, and Sen. Parlette and I are in sync on the NCSL as a resource. I disagree with Steve to some extent. I'm interested in the patterns. We look to make decisions based on common sense, and patterns, and generalizations that can be made. Alcohol misuse can be a social problem, not just an individual problem.
- p. Shelley: Data can be a false nirvana. Maybe in this situation it is best to crawl before we walk. Focus on the impacts of 2SSB 6823, use that as a way to start the data collection. There's not a lot of experience here in gathering, and analyzing data.
- q. Mary: Impacts of negative outcomes....many issues come into play well beyond the regulatory structure. How do you know these changes are working, or having a negative outcome?
- r. Kim: How would you like to conclude this discussion?
- s. Rep. Conway: Why is this so difficult? We need to think about this. What are the roadblocks? I'd rather hold on making a decision.
- t. Fred: Maybe staff could get together with LCB to refine the proposal for research and analysis capability to target on key policies that we're dealing with to provide more specificity.

- u. Mary: What does happen to out-of-date alcohol? When beer is pulled off the shelf, where does it go? Rich Manoli: It goes to recycling to treat the alcohol that goes down the drain.
- v. Mary: When wine is shipped directly to consumers, what regulations are in place to keep an underage drinker from getting it. Steve: Fed Ex and UPS both have requirements. The shipper must have a contract with the provider, and must use a specific label. The carrier regulates the ability to get the tickets to put on the packages. When you sign to send the shipment you have to select “adult signature required.”
- w. Mary: Then the driver has to verify. There’s no insurance that that happens though? The person delivering can just not ask for an ID. Response: There are delivery requirements, but no guarantee. Stings are showing that may not be happening 100% of the time.
- x. Steve: Comments sent out had a graph that shows where underage drinkers are getting their alcohol, and most is outside the licensed distribution chain....it’s from family, friends, parties, etc.
- y. Katie: There have been many studies, particularly by the FTC, of the direct shipment activities and none have shown a significant problem.

30. Closing: LOCATION WILL CHANGE

- 28) Introductions of Task Force Chair, Members, Sterling Associates and audience.
- a) Melinda Merrill standing in for Lynn Gust.
 - b) Representative Alex Wood standing in for Representative Conway.
- 29) Agenda included in presentation.
- 30) Last meeting notes, one set of edits from Shelley Sieveking. **Decision: Accepted.**
- 31) Previous meeting decisions (presentation p.3).
- 32) Since Last meeting (see presentation #4).
- 33) Costco Law Suit – Partial stay granted by the U.S. District Court until May 1, 2007.
- a) LCB explained the stay, granted until May 1, 2007 to give the Legislature time to act during the 2007 Session. Unknown when the final decision will be made, but most likely not until sometime in 2008. The state will be submitting a motion to the 9th Circuit Court of Appeals to extend the stay through the appeal process. On May 1, 2007, the regulations in question will be unenforceable as they stand, unless an extended stay is granted by the 9th Circuit.
 - b) Phil: WBWWA thinks the 9th Circuit will allow a longer stay, and believes the U.S. District Court ruling will be overturned. It makes little sense for the Legislature to do anything even if a longer stay is not granted, because the Legislature would need to look at it again. It doesn't make sense for the Legislature or the Task Force to make recommendations on these issues. The state doesn't know right now what authority they have; they don't know where the limits are. It doesn't make any sense for the Legislature to do anything in 2007.
 - c) Melinda (in for Lynn Gust): So your recommendation would be for the Task Force and the Legislature to do nothing?
 - d) Phil: Yes, it doesn't make sense until this issue is decided.
 - e) Mike: There are many reasons to address these issues besides the lawsuit – to make them better, regardless of the lawsuit. There are changes that would be beneficial regardless of the court decision. I don't understand why if improvements are made, the Legislature would have to take them back.
 - f) Rick: If we don't get an extension on the stay, the LCB would want to provide the Legislature with options that are available. The court invalidated cash on deliver (COD), they did not specify what would have to be included in credit terms. The risk of not having a system in place on May 1, 2007 is more important than implementing something that might need to be revised later.
 - g) Gene: In the event the court decision is upheld, the Task Force should have something they recommend, otherwise this has all been for nothing.
 - h) Phil: I am talking about the seven challenged regulations. There are other things, a lot of meaty issues, not related to the challenged regulations. If the Legislature takes action and then the regulations are upheld, it will all be for naught. It is just a question of timing. There are changes that could be made, but it should wait until the court decision.
 - i) Tom: In our system of justice, judges make decisions and then the appellate court makes decisions...but there is nothing that can be done if the stay is not extended. The Task Force should do our job and do what

we think is right, regardless of what the court is doing. Is there a 9th Circuit briefing scheduled? LCB: Early November for the first briefing.

- j) Rep. Curtis: Concern that if we did not allow discussion on issues at question, it would constrain what the Task Force is doing.
 - k) Rep. Wood (in for Rep. Conway): The 9th Circuit will likely take a long time. There is a lot we can do in preparation for decisions. It doesn't have to be final, but at least the consideration is beneficial.
 - l) Tim: There are recommendations that we can make, regardless of the issues on appeal.
 - m) Tom: My point is, just because the court has ruled on something, doesn't mean it's off the table. We should make recommendations, then the Legislature has to balance the need to make the change versus no changes. We shouldn't be tied to what the judge says at this point. It is just the beginning of the court process, not the end.
 - n) Shelley: Are you saying even if the Task Force thinks there should be a regulation that the District Court has ruled against, the Task Force can still recommend it? Tom: Yes. Shelley: Concerned that we may not be getting candid discussion because of the issues that are being challenged.
 - o) Rick: I want to reiterate that if we don't get the stay, the regulations will be invalidated. The question will then be to leave it wide open or have some options available prior to May 1.
 - p) Phil: For instance the judge found the ban on quantity discounts is illegal. There are many options then that the legislature needs to consider including additional restrictions. We won't know what other constraints may be needed until the 9th Circuit rules, that's why it is premature to discuss this now.
- 34) Relationship Among the Tiers: Tied House regulations in general. (Presentation 10-21; Tied House issue paper and Scenario 1 related to example of ownership issues.)
- a) Rep. Wood: When were the Federal Tied House laws developed? Shelley: Believe in the early 1930's but many amendments since. Lorraine: 1996 amendment to prove retailer independence due to court decision.
 - b) Fred: Do you know how many cases the Federal government has successfully prosecuted? Sterling: Believe Bernie Kipp (Federal TTB) mentioned there had been none since this amendment. Phil: Yes, there have been none. And the Federal Tax and Trade Bureau does not regulate retailers at all.
 - c) Mike: Would like to go back to underlying assumption that if a manufacturer owned the retailer, they'd be more aggressive than just an independent retailer. My experience is a retailer has incentive on their own, they are not more aggressive if owned by the manufacturers. Even when a retail outlet sells only one product, the consumer still has a choice of where to go. There are plenty of choices. Also as a brewer/retailer, we do not sell as much as we can – we have an ethical responsibility not to over-serve, and we don't. The rules could be more liberal about ownership.
 - d) Gene: In today's world a retailer would not normally put themselves in a position of selling only one brand because consumers would not tolerate it. The old environment doesn't have application today. The fervor of keeping ownership so separate does not apply today.
 - e) Rep. Curtis: I would like to hear discussion about what it would be like if we got rid of the Tied House regulations. For instance we've seen what happens when Pepsi and Coke don't have those restrictions. What would happen with this product? Pepsi or Coke are not giant owners of other retail outlets. The Tied House

rules are antiquated. What do others think the impact would be if the Tied House rules went away or were relaxed?

- f) Tim: Don't believe that if a manufacturer is allowed to have ownership in a retailer, it would lead to misuse and over-consumption. Not allowing it prevents developing tourism and economic development in the wine industry. Forced sales that may have happened pre-Prohibition is just not happening now. The environment of the late 1800's is very different from today.
- g) Phil: First we're talking about on-premise and off-premise retailers to level the playing field. Yes, the environment has changed, it used to be dominated by large manufacturers. Now the reverse is true – the industry could be dominated by large retailers selling alcohol. In the top 100 Fortune 500 companies, 16 are retailers who sell alcohol – big players. The Tied House laws keep things in check with a level playing field for everyone. The one principle that still applies today is that you don't want a retailer beholden to a distributor or a manufacturer. The Tied House laws prevent that. Could have bars on every corner or beholden to suppliers if these laws are not in place.

35) Scenario 1 related to a sports and entertainment facility ownership issue and Tied House regulations.

- a) Gene: Issue for restaurants is when they have investors for their restaurant they cannot also have investments in alcohol manufacturers as well. Not just a supplier that has a facility, but also someone who has some interest in a supplier can't have investment in retailer too.
- b) Fred: The single most prevalent practice that encouraged consumption in prohibition days was the financial connection of suppliers and retailers. Instructive that the most enduring part of regulations is the Tied House laws. Believe states realize it has been instrumental in addressing problems that occurred in saloon days. Strong majority of states have strong Tied House laws. Exceptions provide a chance for the Legislature to look at all the implications of exceptions one at a time. We would be moving into dangerous water if we consider eliminating Tied House laws or moving to a Federal model, or one that is very difficult to enforce. Object to comparison with Pepsi or Coke. It is not the same product.
- c) Rick: Back to separation of the tiers – the idea of keeping them separate is that we don't have a "Bud House" or that a large retailer couldn't purchase a winery. Those are things the LCB has heard. Not sure if it would happen or what the result would be.
- d) Katie: Would like to know which states have the *de minimus* exceptions and if it seems to work for them, and if the liquor board is comfortable with those.
- e) Rep. Curtis: If you look at other states, like Georgia where they can have an interest, but a minimum interest, would that work? Is there any room? Don't like the idea of giving the LCB more discretion without specific boundaries. The perception quickly becomes unfair treatment.
- f) Shelley: Bigger issue is beyond ownership – the state has gone way overboard to go so far to find an interest. It should be more direct. Don't know of another state that goes so far to try to find an interest to prohibit. Things like whether a consumer can have a napkin or coaster. The Tied House laws have a place, but the state is way beyond where they should be.
- g) Tim: The problem is where the line is drawn. A few real world examples: a Seattle executive couldn't invest in a winery because he has an interest in a hotel that serves wine; a daughter who manages a family golf course that serves beer, and the husband wants to own a winery, can't do both; restaurant serving a certain wine can list the winery on their web site but can't hot-link it.

- h) Mary: Worry about what effect limiting Tied House would have on smaller outlets. Entertainment facility naming rights can be an issue related to influencing consumption. When an alcohol manufacturer can get naming rights, how many times does that get in front of our youth and others who may be over consuming? Many alcohol-related deaths just in our community in past weeks. What kind of social norms are we setting with naming rights to alcohol manufacturers?
 - i) Carol: I have asked for time to allow a presentation of prevention research; there is solid research that shows when the perception of harm goes down, use goes up. When you pair something positive, like a sports stadium, with an alcoholic beverage, the perception it gives to youth is that it is no big deal, and it contributes to youth consumption. Would like to bring in presentation that there is proof that it makes a difference.
 - j) Mike: Sympathetic to the effect on youth. There is high-risk drinking, that kids engage in. A negative perception on high-risk drinking is a good thing – like smoking. Need to do the same thing with high-risk drinking. But drinking in itself is not necessarily a problem. Back to the Tied House ownership - it's true that when a manufacturer has an interest in the retail outlet, they will favor their product. That happens today. Current laws must have a brewery in the outlet. Now some open additional outlets with a "token" brewery. Should be allowed to have more outlets to avoid nitpicking, and working around the rules. Could still be a specific limited number, but more than one.
 - k) Gene: Appreciate Tim's examples, and appreciate what prevention folks bring. Would like to see a report that shows naming rights has an affect on minor consumption or over-consumption.
 - l) Fred: Appreciate the examples of problems with existing law. But current system is designed to address exceptions. Would guess there isn't a direct connection that could be shown to over-consumption, but there is big money in naming rights, and therefore there must be a benefit to the bottom line or they wouldn't be willing to pay huge sums of money.
 - m) Mary: Not so much about comparing consumption at Coors Field with Qwest Field. It's all advertising, huge advertising, and that has an influence on youth perception.
 - n) Tim: Advertising money usually goes to trying to changing brands not to trying to increase consumption overall.
 - o) Tom: Many comments about enforcement of rules, and being able to enforce them. But, there are never enough enforcement resources. Prevention is better than enforcement. Rules that prevent abuse are better than just catching abuse. The strategy has been to prevent abuse. Can't count on enforcement to catch abuse – it is not practical. Seattle has been struggling with enforcement – it is very difficult.
- 36) Tied House – "Money's Worth" discussion (Presentation p.23-31)
- a) Fred: On the wine tasting issue, the issue is that the winery can't give free wine for samples? Lorraine: Yes. Tim: And the winery can't physically pour it. Sterling: The wine shop staff can pour.
 - b) Shelley: For beer there is no way to sample. Shouldn't matter who pours it. But can't give any kind of samples. The rules deal at too great a depth – into the minutia – should be higher level; things that matter.
 - c) Nate: Occasionally questions come up about how does this impact underage drinking. Those are good, but remember that is not the only policy goal of the state. All policy impacts need to be considered.

- d) Mike: There are things that are illegal that don't make sense and other things that are legal – like giving away sports tickets – are okay. Would rather see all inducements go away. Would also like to see more enforcement if the rules are there. Let's limit or get rid of the exceptions and increase the penalties and oversight for violations. Self enforcement – fingering others – is not working.
- e) Melinda: There are some states where we are able to sample wine in grocery stores, and I would like the Task Force to consider recommending sampling in grocery stores.
- f) Phil: The industry is very competitive. Believe self-policing does work. The issue with the Board of Directors (prohibition against a Board member owning any retail interest) has been dealt with during the last session. Exceptions that have been made are policy decisions by the Legislature when the need has been demonstrated.
- g) Tim: Sounds like some want it stricter. But the rules are too much into the minutia. Shouldn't be a bright line at the lowest possible point. Have gotten exceptions to some things that are reasonable practices.
- h) Fred: Regarding option of no change with no more opportunities for exception would be more restrictive not less. Don't believe this would work.
- i) Rep. Wood: The number of requests that come to the legislature are many, and it would be nice if there weren't so many, especially that deal with small details.
- j) Gene: Would be good to look at all of the little things that drive us all crazy, make a list and act on it – that would be great.
- k) Tom: What about policy guidance for exceptions that would allow a policy based approach for the future, and get rid of all the little things. Get rid of the little stuff, but set some core principles. Sterling: There were some of those options discussed in the 1999 study. Tom: Would like something as guidance for both ownership and money's worth issues.
- l) Mary: Sampling in grocery stores would be a nightmare. How could the rules be enforced? Grocery stores are a different environment than a specialty wine shop – lots of under age people coming in. Prevention is better than treatment.
- m) Rick: How much worth is okay for a manufacturer to give to a retailer? Percentages? Dollar amount? Need to draw a line, or we'll going through this every year; but it is difficult.
- n) Lorraine Lee/LCB: Have thought about identifying typical industry practices that would be acceptable. Perhaps a list is what will work. Very hard to craft criteria around the decisions they have to make. May be easier to work off a list. Sterling: Also in our interviews, when asked, "Where is the line?" – participants could not define the line.
- o) Tim: There are services winery would not want to provide to a wine shop either. But maybe if it only has to do with their own product, it's okay. That is a concept with other issues, like rotating stock.
- p) Shelley: Another reason the money's worth gets harder is who is the value being provided to? The consumer? The retailer? Would like to see regulations relax around promotions. Some states do it through interpretation; if the value is to the consumer not the retailer, it's okay. Some states do it by regulation. Can identify certain practices that there is enough concern about to address.

- q) Katie: The sampling issue could be done in a controlled way. Wine tasting is an important tool to the wine industry and not everyone can get to a wine shop. Need to do it in a very controlled way – separate areas, number of tastings allowed, who is serving, how much to serve, etc.
 - r) Carol: Prevention community will continue to defend the prohibition on sampling in grocery stores. Also believe some retention of Tied House rules is important. Struggling to make these decisions or to assess each exception can be positive, not problematic.
 - s) Phil: It is a struggle, all the time. I have been on a variety of task forces with no consensus. It's public policy. There are criteria established through existing policy.
- 37) Next meeting, October 12. Will bring issues back that have been discussed for a resolution, and if time permits, also discuss the regulations at issue in the court decision for Task Force feedback. Need to start early to get in the whole agenda – 8:30. Location to be determined.

- 1) Introductions of Task Force Chair, Members, Sterling Associates and audience.
 - a) Mr. Kang for Perry Park
 - b) John Guadnola for Phil Wayt
 - c) Anthony Anton for Gene Vosberg
 - d) Gilbert Canizales for Shelley Sieveking
- 2) Last meeting notes, no comments or corrections. **Decision:** Adopted.
- 3) Previous meeting and since (presentation p.2)
- 4) Meeting context and Objective of today's meeting (presentation p.3-4)
- 5) Agenda included in presentation – aggressive schedule to make decisions for inclusion in Task Force report. (presentation p.5)
 - a) John Guadnola: Comfortable with discussion, but not with voting. Since we're in the lawsuit we don't want to say something that would compromise our position. Our position is the state has the right to adopt these regulations regardless of the lawsuit. I am concerned that a vote would be perceived as a position of the LCB. We do not have sufficient information regarding some of the areas on the list – credit, for example. 30 states limit credit, 29 don't allow it.
 - b) Sterling: Anyone can abstain from voting. The Task Force report is not intended to represent the position of the LCB, it will represent the position of the Task Force. And we will note other view points in the report as appropriate. Please note that at the beginning if you have a particular option, stance, wording.
 - c) John G: Will you note abstentions?
 - d) Nate Ford: We will do hand counts, no roll-call unless requested by a task force member. We're looking for consensus. We will note abstentions if the abstainer requests it to be noted.
 - e) John G: I'm uncomfortable with a legislator or LCB representative going on record about these issues.
 - f) Nate: It's the decision of the individual task force member about whether to go on record or not. We will attempt to reflect diversity of opinion in the report.
 - g) Fred Hellberg: The letter from Perkins Coie, was it solicited?
 - h) John McKay: Perkins is Costco's attorney, we requested their opinion.
 - i) Rick Garza: It is clear that the LCB's position regarding the regulations involved in the lawsuit is that those regulations be retained so I will abstain from voting here today. Regarding the other issues on the agenda, I don't think it's important for me to vote because that will come back to the LCB for consideration and we can address them then.
 - j) Senator Parlette: As a legislator, I will not vote today either.

6) Tied House Ownership – Discussion

- a) Sterling: Presentation of draft alternative. The percentages included in the draft alternative have been taken from what other states do. We have not undertaken specific research to back up the particular percentages.
- b) Tim Hightower: I'm in favor of loosening of this restriction. I'm not comfortable with specific percentages because we didn't talk about these. I suggest we talk about a general relaxation of the tied house ownership prohibitions. The 20% restriction would prohibit owning a wine shop. I would suggest taking them out and making the recommendation more general.
- c) Mike Hale: This issue is not part of the lawsuit. I am a manufacturer, distributor and retailer. I have had investors interested in aspects of my business but they couldn't be involved because they owned retail licenses. We could limit the number of relationships (e.g., limit it to 10 relationships, so a supplier could only have an interest in 10 places...that would limit their potential impact on the market.) MOTION: I move we loosen the tied house restriction so that supplier, distributor, retailer could own part of up to 10 outlets. (No second.)
- d) Fred: I think this is a classic area where the Legislature has addressed necessary exceptions after debate and discussions. I am not in favor of this approach.
- e) Anthony Anton: One of the drafts (from previous meeting materials) talked about the Oregon Model. It seems to make the most sense without putting numbers on it. I'm not sure where percentages should or shouldn't be.
- f) Tim: **MOTION:** No vote on this approach with percentages, but there is a consensus to loosen tied house ownership provisions and to work with the LCB to arrive at a workable solution. Anthony: **Second.**
- g) Carol Owens: I don't see a compelling need to change this. We have an approach in place for considering exceptions. This is also where we talk about naming rights, and I can't support anything that would loosen those.
- h) Tim: There have been exceptions to Tied House, but most exceptions have been around money's worth, not around ownership.
- i) Carol: In that discussion last time, there was a discussion around naming rights.
- j) Tim: I'm not saying there aren't concerns – wouldn't want to let ownership issues go away altogether.
- k) Katie Jacoy: As long as they are not discriminatory, we would support loosening of these regulations as well. We would recommend we look at the specific percentages.
- l) Mike: Reading that regulation, it does seem that it would be difficult to enforce.
- m) Fred: I would agree with Mike. I don't know what Oregon is doing to enforce. Lorraine: Oregon enforcement staff is limited (they have one person working on this aspect of enforcement.)
- n) Anthony: The motion is to recommend liberalization, not necessarily adopting the Oregon model, but encouraging loosening without specifying percentages.
- o) Tim: I'm just uncomfortable with the percentages.

p) **Final motion: Encourage the liberalization of the tied house ownership restrictions, and work with the LCB to arrive at a workable solution.**

q) **9 Yeas, 3 Nos. Motion adopted.**

7) Tide House Money's Worth – Discussion

- a) Sterling: Presentation of alternative.
- b) Steve Lynn: This is directed to retailers. We codified a money's worth exception at a huge level – when distributor stocks and restocks. That is a huge impact – in law – that distributors can do that and the cost is driven into the product. A huge amount of money's worth being provided. The little things (like not being able to sign bottle of wine... The price reflects this service whether or not you take advantage of it. (Small retailers do NOT use that service, even though they are paying for it.) Delivered pricing issue deals with more than just the freight, it's the cost of the staff that reflected by those services. Who should own those FTEs? The distributor or the store owner?
- c) Mike: Some of the exceptions granted have been quite large. I would hope the LCB would examine each and every exception to see if they are appropriate based on their goals. We can't provide a coaster but we can take them fishing in Alaska for a week. Coasters, t-shirts are already given away in the industry because of the lack of enforcement. There are so many ways around the rules. I would like to make a **MOTION** that the LCB reevaluate the list of existing and proposed exceptions to assess against the intent of state policy goals. The exceptions granted are not appropriate, seemingly done in a little bit of a vacuum without much scrutiny. Fred: **Second**, with modifications.
- d) Rep. Conway: I would agree with Steve Lynn and these are issues the legislature has been dealing with.
- e) Katie: I'm concerned with the detail. All the exceptions have been granted by the Legislature, so they have been scrutinized. For example, an exception has been granted that allows a winemaker to come in to a retailer and educate consumers. I'm concerned about the reexamination. Mike's concern about a list of things that everyone can do...table tents, wine list, etc. things that are of de minimus value to the retailer. I'm in favor of a list of things that would be approved. But I would not like to see a reexamination of every tied house exception available now.
- f) Steve L: If you're really looking at money's worth, it's the big ones that really make a difference. Grocery stores and big box stores get service for free. It's huge. Shouldn't that burden be put on the retailer?
- g) Mary: I'm confused on what the motion is. The draft alternative talks about a lot of things. If we add "and the intent of the state policy goals" you'd have a clearer picture. Nate: The motioner and seconder agreed on the language. Fred: My intent was not to exclude the language from the original alternative.
- h) Mike: My experience in the marketplace is the current exceptions unlevel the playing field, not level it. Those who have the wherewithal to go with the exceptions, or break the rules, are advantaged. Nate: Please focus on clarifying the motion and not add debate right now.
- i) Mike: Is it appropriate to talk about enforcement issues? If there are rules, then resources need to be applied.

j) Motion to amend motion to address enforcement. (adopted by voice vote.)

- k) John M: We don't use stocking services because there is so much interplay between issues like shelf space. We're strong enough financially to stock our own shelves. Other retailers may need that. Some of the distributors do wield power in relation to shelf space. So I would echo Steve's comment that that is a huge money's worth issue.
- l) Tim: Original draft alternative is good, it is broad enough to address the concerns. Level playing field isn't part of the state goals as we've discussed them. Practically we have a huge task just looking at new items. Revisiting existing ones the legislature has already approved is a big task. I would support original draft.
- m) Tom: I would rather see the LCB focus on enforcing issues in my city, not whether retailers are getting coasters. I want them focusing on sales to underage, etc.
- n) Katie: The draft alternative v. current motion, what's missing is "work with stakeholders." I would encourage the motioner to think about how the list would be developed.
- o) Rep. Conway: Exceptions have come from the evolving role of the retailer. Their industry is changing so we've been asked to change the law to accommodate those changes. Hard for me to envision a committee sitting down and drafting a comprehensive list because industry is constantly changing. The LCB often brings the exceptions to us. There has been a healthy exchange between the LCB and industry to develop. Assuming that a group can sit down and draft a list is a little ambitious. Process that's been in place has worked.
- p) Carol: Where the community representatives have concerns is where advertising and social marketing collide. As long as this is a reasonable process and the stakeholder process would bring in those perspectives I'm satisfied.
- q) Rick: I think it's been difficult for the LCB. When these issues come directly to the Legislature it is difficult to have a thorough discussion. I can see us move forward with a work group to fully discuss all of these issues. It is difficult for the LCB to come to the Legislature with a full range of perspectives when it occurs during session. It would make a lot of sense to continue these discussions around tied house money's worth and ownership
- r) Sen. Parlette: I would agree with Rick. It feels like we're piecemealing these issues in the committee at times. There is value to have a task force look at these more broadly. Looks to me that a reevaluation of this issue would be useful, but it can't happen in the legislature.
- s) John G: Seems to me we go back to the draft alternative, add in enforcement.
- t) Steve: I appreciate the concern about re-evaluating what's there already. Things change and maybe some of these may need to be reconsidered.
- u) Mike: I'm just concerned about getting in the notion of a reexamination. So I'd be happy to stay with the original draft with added language to address that. Fred: Accepts.
- v) Anthony: Roberts Rules of Order – Mike would have to withdraw his motion. Nate: We want to use the rules to be efficient but not to overly complicate this process.
- w) Carol: With enforcement resources added in.

- x) John McKay: So if we approve this, so what does this say? It would be the Task Force saying to the LCB that it continues to work on this issue? Nate: The Task Force doesn't have the authority to dictate, but it would be a consensus of the Task Force. And the state's policy goals always underlie everything.
- y) **Final Motion: Continue the state's current approach of providing specific exceptions to the prohibition against providing money's worth to retailers, and direct the LCB to work with stakeholders to re-examine current exceptions and develop a comprehensive list of proposed exceptions for legislative consideration. When developing the list of recommended exceptions, the LCB should consider: (1) industry business needs, (2) customer benefits; (3) whether it creates an unwanted inducement for retailers; (4) the potential for increased misuse of alcohol, and 5) enforcement resources.**
- z) **15 Yeas, No Opposed. Motion adopted.**

8) Common Carriers – Discussion

- a) Sterling: Presentation of alternative.
- b) John G: Oregon is missing from the example. They don't allow common carriers. I would be very concerned about something that doesn't require some sort of licensing requirement. We would not like to see this changed, but if it is, we recommend strong licensing requirements be instituted.
- c) Lynn: The one piece I would ask to have this group consider is to allow us to use our fleets and trucks to pick up.
- d) Tim: All the shipments that go to distributors from manufacturers are done through common carriers. If you are shipping to a distributor or retailer, you want to make sure you get paid, so if anything goes missing it becomes immediately apparent. I think the process of trying to license the trucking companies would be a big hindrance.
- e) Steve: **MOTION** to accept the draft alternative as set forward.
- f) Katie: **Second.**
- g) John G: My response to Tim's statement that there haven't been problems to date, is we're going through a paradigm shift in relation to the potential number of entities involved (product going from and to). There are 12,000 retailers and several thousand out of state manufactures that could use this authority. We think the current system works best, because it provides control. We could not support a legislative change without a stringent licensing requirement.
- h) Katie: Common carriers are being used currently, when beer or wine is ordered by retailer, or when coming from out of state to a distributor. We're not changing *whether* they can be used. We'd be changing *who can contract for it*. Other states have put in not a licensing requirement, but more of an approval process, so the state knows who's doing it. A licensing approach can limit whether common carries would want to participate.
- i) Fred: My main concern is the inconsistency about when common carriers can and cannot be used. Right now it seems inconsistent and developed willy nilly. I tend to be supportive of the alternative. From an enforcement standpoint, if this were changed according to the alternative, would this create an overwhelming enforcement burden? Or, do you have knowledge of how it's done in other states?

- j) Mary: Where does the piece come in about when the product can be purchased by the consumer?
- k) Tim: We're talking about the licensee-to-licensee relationship here. There is a relationship to maintain and concern that everyone get their product and payment. This is not the same as direct consumer purchases.
- l) John G: The ability to deliver by common carrier compounds concerns about compliance with law and taxation issues unnecessarily. We could not support this without a strong licensing component.
- m) Tom: I have two friendly amendments – eliminate the parentheses to direct the LCB to consider a licensing requirement. If the current common carrier is required to hold a license to carry product to consumers, we're looking for consistency.
- n) Steve: I have no issue with removing the parentheses. That's no problem. I'm not sure how to handle the second part. Add something that would reflect the desire for consistency regardless of who is getting the product.
- o) Katie: Very few wineries have signed up for this (50 according to the LCB at the last meeting). And the reference John (G's) makes to the 12,000 retailers...they can already contract with common carrier. We're not changing that dramatically.
- p) John G: Changing the circumstances to allow manufacturer to be a rolling warehouse. It opens up the law.
- q) Katie: We're fine with an approval process.
- r) Rep. Conway: Do you find the larger manufacturers require the retailers to cover the cost?
- s) Katie: The current law is the retailer has to contract and pay for the cost of a common carrier.
- t) Fred: Call for the question.
- u) **Final Motion: Allow manufacturers and distributors to ship their product to retailers using common carriers and consider establishing a licensing requirement for all common carriers delivering alcoholic beverages regardless of origination.**
- v) **13 Yeas, 2 Nos. Motion adopted.**

9) Central Warehousing – Discussion

- a) Sterling: Presentation of alternative
- b) Rep. Conway: I'd like clarification. Does this alternative relate to only the retailer's purchased product? So a retailer could purchase product from winery or brewery, and use their own warehouse for distribution? Sterling: This language wouldn't necessarily require that the warehouse be limited to one retailer. This language would not prohibit joint warehousing, but would require that an individual retailer would serve their own licensees. (To avoid retail-to-retail sales.)
- c) Lynn Gust: As I read this, I think this language would prohibit the Associated Grocers of the world from being able to use their own central warehouse to distribute. Sterling: The intent would be that the warehouse would store a retailer's product and deliver that retailer's product only to that retailer. (The retailer here is distinguished from the licensee. So, for example, a grocery chain with several licensed

retail outlets could warehouse product and distribute to their retail outlets, but the warehouse would not have to be owned by that retailer.)

- d) Fred: Would the requirement that warehouse be located in Washington raise a commerce clause question?
- e) Katie: I would agree it raises a question because it makes a distinction for out of state entities – it puts a burden on out of state retailers.
- f) John G: I read this as Lynn did, that you had to own the warehouse. If you don't then it raises the whole question about who gets to run the product through the warehouse. I don't see how it works if you don't own it. I have some concern from enforcement point of view regarding diversion. Right now the distributors know what can and cannot go into an alcohol impact area. By allowing central warehousing and perhaps with a retailer's central warehouse outside an AIA [Alcohol Impact Area], distributors would lose that ability to control the sale of restricted products within the AIA. I don't understand why Associated Grocers don't just get a distributor's license?
- g) Rep. Conway: Question for Katie – what's the harm if an in-state grocer's – Albertson's, for example – main warehouse is in Oregon.
- h) Katie: Is there a specific state policy that is served by burdening interstate commerce. And if you've got a warehouse out of state, versus an in state warehouse, what policy does that serve? And does that justify the burden put on interstate commerce? If you can't come up with a reason, you can't justify the burden. Sterling: And it's in here because it makes it easy for the LCB to come and audit, and control. Katie: All those things would still be in place, and the LCB would still have the ability to control the licensee at the out of state warehouse and at the store level, controlling the movement, etc.
- i) Lynn: Beyond the Albertson's example, Fred Meyer and Safeway also distribute to Washington stores from out of state warehouses. So certainly we have the ability to deal with it, but from practical reasons it doesn't make sense.
- j) Mike: From a small producer's perspective, the ability to distribute to a central warehouse of a retail facility would allow us a much greater ability to participate in self-distribution. From our perspective, if you take out "located in Washington" this draft alternative would allow small producers to distribute to retailers more freely. **MOTION** to remove "located in Washington" and adopt the draft alternative.
- k) John McKay: **Second.**
- l) John G: I'm troubled generally about this, but particularly if it isn't limited to a specific company.
- m) Mike: Clarify that the warehouse is owned by the retailer. (John M. OK'd clarification)
- n) Lynn: What about if it is owned by a cooperative group of retailers? Is that prohibited or allowed? As a representative of the food retailers, I need to make sure the small independents can be represented as well.
- o) John McKay: Would it actually be practical for Associated Grocers to become licensed distributors? Lorraine: Yes they could. One point to emphasize. Under the current regulations, the license is based on the location. By lifting the ban, we're saying it doesn't have to go from the place of origin to where it is sold.

- p) Rick: That's part of the difficulty, if it's going from an out of state entity warehouse to a retailer location in Washington we need to ensure we track the taxation.
- q) John G: There would be major issues for beer, it maybe different for wine. If beer is going from Seattle warehouse, who is responsible for removing out of date beer in Bellingham. Every time you add another step, you add another opportunity for a case of beer to end up in someone's trunk. I don't see the value.
- r) Rep. Conway: I reiterate my concern about how this will uneven the playing field among our grocers across the state. The grocery industry is very diverse, some tied into central warehouses and some not. How would this impact 7-11's? That's a major nexus point for beer and wine sales. I don't know how they're doing that. Enforcement and tax collection is a big issue here.
- s) Tim: When the wine is shipped to the warehouse, that would be the taxable event, right? Wouldn't that make it simpler? Lorraine: Possibly.
- t) Tom: Is the issue about licensed entities a detail that can be worked out in the legislature? Lorraine: Yes. Is it possible to license outside of the state for taxation purposes? Rick: Yes, it is easier to deal with in-state entities. If it is an out of state warehouse, that may be more difficult.
- u) Katie: Taxation – the retail sales tax is taxed at the retail outlet at the time of sale. The excise taxation wouldn't change, would it? Lorraine: No, that wouldn't change, the out of state collection may be more difficult if the warehouse is out of state.
- v) John G: We're talking about shifting costs. Retailers wanting to warehouse so they shift a cost to the state through regulation. I don't know where all the impacts would be. What does this do to the state's ability to control? I don't know. You're adding a burden of complexity, without additional benefit.
- w) Mike: On taxation, when I ship beer to California, I report that to California. Suppliers report all their sales to someone, including the feds. So that system is in place. The taxable event occurs when supplier ships to the warehouse now.
- x) **Final Motion: Allow central warehousing as long as each central warehouse is owned by the retailer, stores and distributes only the retailer's purchased product to its own licensed retail outlet (i.e. no retailer-to-retailer delivery or sales), the warehouse is appropriately licensed, and documentation is required showing the product was purchased legally and distributed legally (to licensed establishments) – to allow for appropriate tracking, an audit trail and minimized diversion.**
- y) **5 Yeas, 8 Nos. Motion fails.**

10) Delivered Pricing

- a) Sterling: Presentation of Alternatives
- b) Steve Lynn: The issue at hand is the price is a blended price reflecting three items....the price of the commodity, a variety of services, and cost of delivery. That is a problem for everybody – the granularity of the number. I think everyone wants to pay the same price for the product, but no one wants to pay for services they don't use. Shipping is shipping and makes sense, but service is different. The price of the product should just be the price of the product. Whatever alternative we come up with, the language should reflect that we're paying the same price for the product. Multiple service

levels would be difficult, but shifting that cost from merchandising would be huge. I would encourage breaking it out in some way.

- c) Fred: Just from the limited examples of what other states are doing it appears Washington is on the most restrictive end. Allowing the surcharge, would that create complications in regulation? I don't understand the pros and cons. Sterling: In those states that have surcharges, generally the surcharges need to be uniform.
- d) John G: The fuel surcharge wouldn't be a problem. The varying level of service would be difficult. Costco pays a delivered price like everyone else. So Steve is paying for stocking services he doesn't use, but he doesn't pay the extra costs associated with delivering to a small retailer. Getting rid of delivered pricing would create a huge advantage for some retailers.
- e) Katie: California doesn't have delivered pricing for wine and no segment of the retailers have gone away. Variable service levels may be more complicated.
- f) John G: There is a huge difference between beer and wine in this area. The two products are very different.
- g) John M: The requirement is that it be the same. Any distributor can say, we have one price available to all customers. This would just allow an option, allow distributor to make this available – it does not require distributors to make it available.
- h) John G: How many distributors can afford to say we will not sell to Costco because we don't want to offer a discount?
- i) John M: It's very realistic. We deal with many approaches in the marketplace. We have lots of wineries that insist that distributors do NOT sell to Costco. The marketplace does work in that situation.
- j) Tom: My concern is subsidizing alcohol prices. Alternative one...distant buyers are subsidized by close buyers. (Omak v. Seattle). **MOTION:** I move we adopt alternative #2 which levels the playing field, removes some of the subsidy.
- k) Mary: **Second.**
- l) John G: Your concern about subsidizing prices is a concern that prices may be lower? In the places where the products are sold most (Seattle) the prices are somewhat higher than they would be otherwise. To the extent prices get skewed, people will buy where prices are lower. No one can say what the overall impacts are. Prices are higher in Washington and consumption is lower.
- m) Tim: If people are talking about negotiating prices, are quantity discounts included or excluded here? Sterling: The intent of this item is to focus on the difference in prices related to shipping and service levels. Not dealing with volume discounts in this particular recommendation.
- n) John G: Is it also the intent that the LCB would set the different service levels? Sterling: That is a level of detail not dealt with here.
- o) John M: Alternative 2 creates some issues. Those farther from the distributor will be most impacted. Issues related to tiering it, independent of the marketplace.
- p) Anthony Anton: Consumption data provided to the Task Force doesn't seem to correlate to prices or regulation. License states don't seem to have higher consumption than control states, Washington

appears to be somewhere in the middle of the pack. In fact, our wine consumption is on the higher end, even with our regulation and higher prices.

q)

r) Rick: There are so many factors around consumption some that deal with regulations and others outside of regulation.

s) Anthony: Have we set objectives for what we want to see? For example, have we said we want our consumption rate to be X, and we're making changes to this regulation, so we can come back in 5 years and determine if our approach was successful?

t) Steve: When a price is submitted and posted, it includes the cost of service, product and delivery and we cannot tell what the actual cost of the product is. Someone will pay for those other pieces, but then we can focus on who SHOULD be responsible for paying those things. Right now we just simply don't know. I'm not in favor of either alternative. Everyone should pay the same price for the product.

u) Tim: Can the LCB give us a sense of what the impacts of this might be? Lorraine: It makes it a little more complex in terms of auditing, if we have to split those prices out.

v) John G: I don't think I can agree that our regulations are related to that we're 12th in the nation in wine consumption. We can't draw that conclusion, without our regulation maybe we'd be first.

w) John McKay: Taxation is an element the state has the ability to control in order to control price. The concept that using distributors to control price, there are better ways. The mechanism of the pricing and forcing through this tier isn't necessary and the state can still achieve its objectives through other means.

x) Tim: Another question: We're talking about prices to retailers? Lorraine: The price from manufacturer to distributor does allow a freight differential. That is not permitted in sales to retailers.

y) Steve: The piece I keep focusing on is a money's worth issue related to who pays for services. Wherever it gets addressed.

z) Mary: Increasing taxes to control prices is right, but taxes are a "four letter word" here.

aa) Katie: Steve, if we eliminate the delivered pricing requirement, why doesn't that get to where you want to get to?

bb) Steve: The delivered price is comprised of all three components – the price of the product, the price of the delivery and the price of the services.

cc) Anthony: We're going from lots of regulation to less. My preference would be Alt. 1.

dd) Final Motion: Maintain delivered pricing requirement, but with different levels of service and allow for surcharges for fuel or excessive distances.

ee) 2 Yeas, 10 Nos. Motion failed.

ff) Anthony: **MOTION.** I move Alternative #1. Katie: **Second**

gg) Final Motion: Eliminate delivered pricing requirement and allow for negotiated delivery prices.

hh)7 Yeas, 7 Nos. Motion does not go forward.

11) 2SSB 6823 Impact Measures

- a) Sterling: Presentation of Alternative
- b) Carol: This state is rich with social indicator data. We need to link those data when we're looking at impact measures. Sterling: The focus here is on the specific impacts related to changes in the law from 2SSB 6823.
- c) Tim: I don't think this alternative says that. If we're evaluating whether passage of this causes problems, there needs to be a causal link. I think we need to make it a more general statement. We need to focus on whether they are using the license, not just whether they have been granted a license.
- d) John G: Seems to me there should be some tracking of the number of in-state wineries/breweries. Has it had an impact on in-state activity?
- e) Tim: This is the one issue the WA Wine Institute weighed in on because it's so important to the health of the in-state industry. This does not address the impact of NOT having this bill. The alternative to this bill is that the self-distribution authority for in-state wineries would have gone away.
- f) Sterling: This also focuses on information the LCB may have but is not currently tracking. Lorraine: The LCB does NOT currently track beer and wine prices.
- g) Tom: Cost of enforcement needs to be tracked, so the legislature could fold that cost into the cost of the license.
- h) Rep. Conway: I'd like to know how other states are dealing with this issue.
- i) John McKay: I don't know how you get any good data yet, given the usage has been just a trickle. Getting good data will be very difficult. Tim's point is good, the alternative is that in-state self-distribution would go away and we could lose a lot of smaller wineries. It's very important that we look at it, and what it's going to cost, but the question is whether you'll get any useful data is unclear.
- j) Rick: John, you're right. With the few number that have signed up, it will be difficult to get much information. From the LCB's perspective, I'm not sure what we'll be able to give you.
- k) Tim: **MOTION.** I move to amend the alternative to delete the words "at a minimum" and "such as." Then, add "suggestions include" and delete "beer and wine retail prices. Keep the basic idea but don't tie it down so much.
- l) Steve: **SECOND.**
- m) John G: Is the retail price available in any meaningful way? (Lynn: No)
- n) Fred: I think the price information would be useful. What is the cost?
- o) Rick: There would be information available from Nielsen, for retailers participating in this self distribution.
- p) Lynn: This is such a small piece of the pie, trying to track those prices would amount to nothing more than busy work.

- q) Steve: Premium wines wouldn't even go through a vintage. We'd focus on jug wine and beer.
- r) Sen. Parlette: What's the value of knowing that information?
- s) John G: There is less value in this context, versus impact measures more generally. At the very least it would be helpful to have a baseline. Nobody has this data yet.
- t) Carol: Given the earlier discussion about whether we know that price influences use. Maybe say "explore ways to obtain retail price information."
- u) John G: I would like to see the "beer and wine retail prices" put back in.
- v) Fred: No other states are collecting it.
- w) Steve: Exclude for this piece, which deals exclusively with the impacts of this bill and included it under general impacts.
- x) John M: We have a pricing history in Washington related to products sold in state liquor stores. Can we use that? Sterling: But there's no change related to prices there.
- y) Katie: I concur with your concern about connecting prices to the self-distribution. But it wouldn't make sense to look at the state liquor store prices. There's no before and after.
- z) Carol: It would be great to have longitudinal data that wouldn't require every retailer to report, but could still contribute.
- aa) John M: Costco is concerned that we be able to bring better prices to the consumer. Our goal is to take a \$30 bottle of wine and figure out how to sell it for \$27-\$28. We think that's a good thing. And we brought the suit to remove regulations that serve primarily to keep prices high. That may be something the Task Force should consider talking about. We don't believe that always keeping prices high is a great idea.
- bb) John G: We struggle with how you make those distinctions between "fine wine" and "that other wine."
- cc) Anthony: Cost of living has an impact on prices. I'm not sure the value of it. I would struggle that we would get a number and try to make a correlation.
- dd) Rep. Conway: Why not include types of products? Our state is pretty unique in allowing out-of-state manufacturers to self-distribute. So, as a leader, in this area it is important to track the impacts.
- ee) Katie: Call for the question.
- ff) **Final Motion: The LCB should identify and select key impact measures that can be monitored and analyzed by the Fall of 2007, to provide the Legislature with data about the impacts related to the implementation of 2SSB 6823.**

The LCB is encouraged to work with stakeholders and legislative staff to identify the most pertinent impact measures. Key impact measures should be tied to the state's policy goals and should address the impact to industry, consumers, the state and society. And, to the extent possible, consideration should be given to selecting measures for which baseline data is already available. Basic data should be collected and reported; suggestions include:

- **the number endorsements granted to of out-of-state manufacturers and in-state retailers to use the expanded authority;**

- the volume of product sold through out-of-state self-distribution;
- the size and type of retailers using the authority; and
- tax revenue collections.

gg) 11 Yeas, 0 Nos. Motion Adopted.

12) General LCB Policy Impact Measures

- a) Fred: Throughout the discussions of the task force, one of the main problems has been the lack of data. I think this is definitely important.
- b) Carol: There is a lot of social and health indicator data available throughout the state. I would encourage that this should say something about working collaboratively with other state agencies using both independent (newly developed) and relevant existing analysis. **MOTION.** Adopt the alternative amended to include working collaboratively with other state agencies using independent data, and relevant existing analysis.
- c) John G: Should add an “and” – the LCB is encouraged to work with stakeholders.
- d) John McKay: **Second**
- e) Katie: I’m concerned about setting out a purpose before we give the LCB 1 or more FTEs to go forth and gather data. We don’t know what the system will look like as a result of the Costco lawsuit. I’m just not sure the timing is right.
- f) Nate: The intent to collect information is not merely related to the suit, but it’s because of an on-going lack of information available to the LCB and legislature to make data-driven decisions. It’s for the more general issue of having good yardsticks.
- g) Sterling: Added language about evaluating policy/regulation impacts. Does this reflect your thoughts accurately, Carol? Carol: Concur.
- h) Fred: Important to set the systems in place to develop this capacity now to have it in place when changes are occurring.
- i) Mary: Would suggest adding “evaluating the impacts of current AND PROPOSED policy/regulations.”
- j) Tim: That puts a huge burden on this one FTE to evaluate all of this. Goes well beyond gathering baseline data.
- k) Mary: What I’m looking at is to have that available...it would be the purpose of collecting all of this....not that you have to evaluate everything right then, but that the information would be available for that.
- l) John M: Withdraw second.
- m) Carol: Maybe say “provide resources” not necessarily “FTE and funding.”
- n) Rep. Conway: NCSL not collecting data either. Just shows you how this state is on the cutting edge of the discussion. I’m surprised we haven’t been doing it. I think it’s a great idea and we need to be doing it. This should be rolled in to the licensing fee.

- o) Rick: How it would be funded is still in question. I don't know that we even need to specify the number of FTEs, it just becomes very clear that there needs to be more analysis and data collection being done related to these regulations. We need to see if there is a link between the regulations and alcohol consumption. It's not clear there IS a link. We don't know.
- p) Rep. Conway: We need depoliticized, neutral data.
- q) Carol: I think we should leave this broad. I would be fine with Rick's suggestion about simply referring to "provide resources" and take out reference to funding and FTEs.
- r) Tom: I think it's important to include the reference to FTEs. Otherwise it's an unfunded mandate for the LCB. I would be very concerned about putting forward a nice statement that the LCB should collect data. If we want it done, we need to specify that resources be provided.
- s) Fred: The LCB will determine the appropriate way to request resources. It could be through additional FTEs or through contracting authority.
- t) Tim: I was going to second Carol's amendment to the motion.
- u) John G: **MOTION TO AMEND by removing parenthetical. And change language to "funding" (remove language regarding FTEs.)**
- v) **Tim: Second. Amendment passed 10-2.**
- w) **Final Motion: The Legislature is encouraged to provide funding to the LCB to develop research and analysis capability, and work collaboratively with stakeholders and other agencies and organizations to collect independent data, and to use/analyze existing data.**
- x) **10 Yeas, 2 Nos, (1 Abstained - Gilbert Canizales for Shelley Sieveking, for this vote only – this does not reflect those who have chosen to abstain from voting on all issues). Motion, as amended, adopted.**

13) Price post and hold – Discussion

- a) John G: In Oregon can go lower, but can't go higher with prices until have held for 14 days.
- b) John M: The court found post and hold illegal, and we don't believe the proposed alternative is legal.
- c) Mike: Experience has been that current practice doesn't prohibit changing prices. Posting and monitoring resources could be spent a lot better. I would like to eliminate the Post and Hold, and divert resources to other higher uses.
- d) John G: Some kind of hold is important for price stability. Price posting seems to be an enforcement tool.
- e) Lynn: My belief is that the current requirement is there to create an equal opportunity; but the federal rules already take care of that.
- f) John G: Federal rules only apply to interstate commerce, not local to local. And only if there is an adverse impact on competition. Do not believe the Federal Act accomplishes what the state is trying to accomplish.
- g) Fred: How many regulatory staff does the LCB devote to enforcing post and hold regulations?
Lorraine Lee: We view the electronic price posting an efficiency tool – electronic system to post. Five

enforcement officers respond to complaints that may come from competitors – they use the system to investigate complaints. Three customer service staff to answer questions on the process of posting.

- h) John: As a retailer, we don't have to post prices. Example of Alaska for tobacco pricing – they make complaints against each other and it works. All the checks and balances aren't really necessary to control pricing regulations – it seems to work well for the marketplace to direct prices and to call each other on violations. I don't believe post and hold brings stability to pricing.
- i) Mary: But how do we know it doesn't prevent more instability?
- j) John M: How long prices are offered doesn't necessarily contribute to stability. And stability of prices don't necessarily contribute to prevention of misuse.
- k) John M: But as a retailer, I can change my price every day – that's where the consumer purchases it.
John G: But at least the retailer is working off of a fixed price.
- l) John M: **Motion** to adopt the first bullet of the alternative, and with modifications (add elimination of price hold and remove "electronic.") **Seconded**.
- m) John G: If you're concerned about any of the other pricing regulations, eliminating the hold makes it hard to control the others.
- n) Mary: If the hold is eliminated, why would anyone have to maintain price lists? John M: Because there are other pricing restrictions that the state would need to monitor.
- o) Mary: But that would require more of a burden on the state to monitor prices, volume discounts, etc.. Eliminating post and hold would create a vacuum.
- p) John M: To the degree there is a complaint or suspicion of violation, the LCB could request the record. Elimination of Post and Hold may free up resources for other more important things.
- q) Mary: Who would file a complaint?
- r) Mike: I don't believe post and hold accomplishes anything related to the policy goals – doesn't create a vacuum. It doesn't accomplish even the orderly market. We still need to discuss the other pricing issues.
- s) Nate: Concept is to put pressure on anyone with lower prices, to have to keep the price lower for a longer period of time – which discourages lower price. The post-and-hold provisions were aimed at producing an orderly market. John M: How did they do that? Nate: They prevent price wars at the distributor level.
- t) John M: Don't think that's necessarily true.
- u) Katie: California does not have post and hold for wine. There have not been price wars. There is no evidence of price wars without post and hold. No mention of price wars as a problem in the law suit arguments.
- v) Nate: There were arguments for it at the time the regulations were developed. The idea of preventing price wars was not new to this process, it was part of the historical arguments for adopting the post-and-hold system made by the Scheweppe blue ribbon panel when it gave recommendations to the legislature when the post-and-hold system was initially adopted.

- w) Mary: Is the question the post and hold itself, or the lack of resources to enforce?
- x) Rick: The electronic post and hold is the most efficient way for the LCB to enforce price regulations.
- y) Tim: There are wines and beers out there now that are cheap. Post and hold does not prohibit cheap product. Example of problems: recently missed a deadline and now can't offer it for another month and a half. Also related to price fluctuations – smaller wineries aren't interested; will set prices and leave them. Bigger wineries may fluctuate some, but most don't want to change daily – there are costs involved in changing prices frequently.
- z) John G: We should separate post from hold.
- aa) Steve: First, I want all three options presented. Second, the hold is more important to help stabilize.
- bb) Katie: Everyone in the market is trying to make a profit. Businesses will price where the market will bear, not so low we are not making money.
- cc) John G: Beer and wine should be separate.
- dd) Final Motion (#1): Eliminate price posting and holding and require manufacturers and distributors to maintain a current and historical price list (for predetermined length of time) at their establishments, available for LCB audit as requested.**
- ee) 6 Yeas, 7 Nos. Motion failed.**
- ff) Motion # 2 to accept draft alternative as written in presentation. No 2nd. Dies.**
- gg) Motion 3: Eliminate price posting. 2nd.**
- hh) 6 Yeas, 5 Nos. Motion adopted.**

14) Minimum Mandatory Mark-up – Discussion

- a) Mike: **Motion** to adopt alternative. 2nd.
- b) Mike: **withdraws motion**. (Note don't want to eliminate current pricing related regulations such as those related to close-outs, and prohibitions against selling below costs. The Task Force does not intend to suggest that the State should allow sales below cost at any level in the distribution chain.)
- c) Tim: **Motion**: Eliminate mandatory mark-up requirement. Katie: **Second**.
- d) Final Motion: Eliminate mandatory mark-up requirement.**
- e) 7 Yeas, 5 Nos. Motion adopted.**

15) Credit – Discussion

- a) Anthony: Question for staff – passed a bill to allow credit card purchases? Can retailer use credit card? Sterling: Yes.
- b) Steve: **Motion** to amend draft alternative to 30 days. John M: **Second**.
- c) John G: Devil is in the detail. It's not clear how a distributor can offer credit and still deal with other pricing regulations (e.g., uniform pricing and level playing field.) Concerned about the level playing field. Concern about retailers overextending themselves. Allowing credit provides opportunities to abuse the system.

- d) Katie: Level playing field? Wholesalers can buy on credit. Why can't retailers?
- e) John G: Wholesalers get credit from time it leaves docks to the point it gets to warehouse and payment is due then – even though warehouse holds it for a while. Who is paying for warehousing costs? Part of the cost is offset by allowing credit. That's not an apples to apples comparison.
- f) Anthony: Retailers can use credit cards today. So why does allowing credit from distributors present any more risk? I don't agree it does.
- g) Lynn: There's no requirement that any distributor **MUST** extend credit; they have an option to decline a client if it is not a good credit risk. There is always a risk that a retailer may overextend on any product – not just beer and wine.
- h) Tim: There's no law that wholesalers have to pay as soon as hits the dock. May be a contract issue, but not in law or regulations.
- i) John M: LCB gets credit when they purchase – it is paid for when it leaves the distribution center.
- j) Steve: Retailers "warehouse" product for consumers the same as a wholesaler.
- k) John G: I'm not worried about a retailer getting overextended on potato chips, but do worry about overextension with beer or wine. We're not comfortable seeing these kind of changes.
- l) Steve: Retailers can buy with a credit card – it's just about who is financing it – not related to over-extension.
- m) John G: Extending credit could also create an issue of using credit to coerce retailer.
- n) Katie: There are penalties that would discourage bad credit behavior.
- o) Mike: I'm not arguing for the motion, because as a manufacturer, I don't like dealing in credit. I would like distributors to have to pay cash. How does the LCB know now if a retailer is paying at the time of delivery? How do they enforce now? It would be the same way if credit is allowed?
- p) **Final Motion: Allow the option for manufacturers and distributors to offer credit to retailers, with specific terms – 30 days, and reporting requirements and penalties for default (temporary license suspension and/or cash penalty), such as the Texas model.**
- q) 9 Yeas, 3 Nos. Motion adopted.

16) Uniform Pricing – Discussion

- a) John M: Talk about level playing field; the market allows for many methods of competition beyond just price. Others use level of service, selection, etc.. however, Costco adds value through price. Believe we should be able to negotiate price and offer any savings to consumers. Doesn't have to be inconsistent with state policy goals. Should be regulated other ways than through pricing.
- b) Steve: This is similar to "delivered pricing" – lots of costs (product, delivery and service) rolled into one "price."
- c) Tom: John McKay, were you talking about volume discounts in your discussion? Or uniform prices?
- d) Carol: Could not support a market-driven pricing.

- e) Mike: **Motion:** require uniform pricing of the product, but negotiate delivery and service pricing. John M: **Second.**
- f) John G: Could still manipulate prices with that motion – doesn't allow for uniform pricing.
- g) **Final Motion: Require uniform pricing on product but allow negotiated delivery and service costs.**
- h) **6 Yeas, 7 Nos. Motion fails.**

17) Volume Discounts – Discussion

- a) Lynn: **Motion:** to accept proposed alternative. Katie: **Second.**
- b) John G: The details bother me more than the concept – especially lumping beer and wine together. Available to all customers? What is the unit? This is too broad. It raises a problem with distributors' contractual obligation to take back beer that is expired – retailer could buy too much and then expect the distributor to take it back.
- c) Lynn: John G raised good question. But we are not here to get to the details. It muddies the waters with things that are not a big issue. The first word in the alternative is "allow" – it doesn't require volume discounts.
- d) Carol: I had a conversation with a small retailer that would be concerned that volume discounts would put smaller retailers at a disadvantage.
- e) John M: It's no different for other products that are sold in volume. Small stores' value is convenience.
- f) Carol: I understand, but with uniform pricing the consumer can get a similar price wherever they go.
- g) John G: Part of the concept behind the system is to discourage someone from pushing alcohol in quantity. Would the state want to pass other regulations that would discourage a retailer in pushing too much alcohol on a consumer? Such as eliminating Happy Hours, etc.? If allow volume discounts, would likely need other restrictions.
- h) Steve: Smaller retailers will be affected by non-uniform pricing. Issue is how one talks about uniform pricing. I don't have an issue with competing on price. It's the other things that get in the way. My prices are higher because we don't get services that others get for free – and we have to pay for it. Volume discounts would mean different margins for small and large retailers. Small retailers cannot play in large volumes. Also, if all of a wineries' wine goes to a large retailer on volume, small retailer may not have a chance to carry it. The things that are out of our control that we pay for is more of an issue.
- i) Mary: We keep coming back to the same thing with pricing issues – I appreciate trying to get the best deal for a consumer – but lower prices do create problems on the prevention side. We need to look at the impact on misuse – not just about what is best for consumers.
- j) Mike: Agree with Mary. But volume discounts exist under current regulations through work-arounds – they are called "special packages." Volume discounts do exist to the extend manufacturers are willing to sell it – package it differently, and post a different price, etc. Why not get rid of the regulations that serve no purpose? Obviously as a manufacturer, I'd rather sell in volume to several retailers rather than small quantities to many retailers.

- k) Tom: I support the motion. The current system makes it worse for public safety in some ways. It must be cheaper to deliver more units, than less. That means small retailers are being subsidized. This motion takes out that subsidy – which means smaller, impulse sales are probably more expensive which is usually where the problems occur with public safety issues.
- l) Tim: I believe that even a smaller manufacturer would not necessarily put all of their sales into one store – that would make the manufacturer very vulnerable. I prefer to establish many relationships with many retailers – if one quits buying it's a small portion of sales.
- m) John M: Costco has a policy that won't buy more than a certain percentage of any manufacturer's product because we don't want to be the sole outlet of any given product.
- n) Steve: Don't like the combination of costs in product price, services, and delivery.
- o) John G: Some of our members like the notion of volume discounts, some don't. I will abstain from the vote. We seem to think the only problem drinkers are the ones that buy it from a convenience store. That's not necessarily true. Drunk driving and domestic violence can occur from abuse of fine wine too.
- p) **Final Motion: Allow volume discounts, with the same volume pricing available to all customers. That is, if there are price breaks at 10, 100 and 500 units, those price breaks are offered to all customers.**
- q) **7 Yeas, 4 Nos. Motion adopted.**

18) Policy Goal Preamble (see presentation p. 27)

- a) Tim: Presented draft language. There are certain regulations and laws that have gray areas, and when get clarification it seems to be based on strict enforcement. The LCB has a 2-edged mandate: to control alcohol and sell alcohol.
- b) Fred: Addso long as “the LCB and the legislature”
- c) John G: **Motion** to adopt the language. **Seconded.**
- d) Mary: Don't like the use of the word “least restrictive” and would like to propose Tom Carr's previous proposed wording

The Task Force believes that an appropriate regulatory system for beer and wine distribution and sales should be based upon the three policy goals set forth below. In enacting any laws affecting such a regulatory system the Task Force recommends that the legislature also assess the economic impact of any changes or failure to change, including but not limited to the need to promote growth of Washington state industries, without losing sight of any potential public safety impact of any such change or failure to change.

- e) Tom: The revised wording is closer now to what I had proposed before...My main concern was that a preamble can sometimes override what follows, and that was the concern with earlier versions. But the revisions are better.
- f) Rick: **Motion** to amend to take out “and allow for promotion and economic development of these vital and important businesses..” **Seconded.**

- g) Fred: I like Rick's amendment – LCB is not a promoter.
- h) Mike: The LCB is in the business of selling spirits because they want to control it.
- i) Rep. Conway: The purpose of the preamble was to ensure the broader impacts were considered, not to address a preamble to the LCB statutes.
- j) Vote on amendment: 15 Yeas, 0 Nos. Amendment adopted.
- k) **Final Motion: The task force believes that an appropriate alcohol regulatory system for beer and wine sales and distribution should be based upon the three policy goals set forth below. In creating and interpreting such a regulatory system, the Legislature and the LCB should consider the economic development of wineries and breweries and related industries, so long as the LCB and the Legislature also consider any adverse impact of any proposals on public health safety or welfare.**
- l) **17 Yeas, 0 No. Motion adopted.**
- m) Mike: All along have been concerned about the current state of the liquor laws in general. Would like to see one outcome from the Task Force is creative suggestions about overarching direction for policies. Have some ideas, don't know if there is time....
- n) Rep. Conway: The Task Force report could reflect the comment of individual members.
- o) Mary: There is a statewide task force to reduce underage drinking Mike. Perhaps you would like to be involved? The enforcement of some of the regulations will be more difficult without price posting. Resources and additional effort should be considered.
- p) Carol: My understanding is the LCB will have a chance to respond.
- q) Rep. Conway: You are essentially looking for a fiscal note. I am not sure if the LCB can get something out before the report is out.
- r) Rick: I believe the LCB will address the report but not before it's issued.
- s) Anthony: Appreciate the data that has been made available around consumption and abuse. We would like to get together with others who might be interested, to set benchmarks and have more dialogue around these issue.
- t) Carol: Would be happy to arrange some presentations around some benchmarks related to prevention. There is information out there. We would encourage this group to use those resources.
- u) Anthony: Even if informally, we would like to track these kinds of issues and the impacts.
- v) Steve: Remember the comments several meetings ago, around additional taxation around high alcohol products. Perhaps that could be considered in the future.
- w) Tom: One of our priorities was increasing enforcement resources for the LCB. We didn't address that today.
- x) Fred: I agree with Tom, but would like more information about where the LCB is now with respect to enforcement resources. Has it changed? Has it been increased with population and licensing? Rick: It is still static. Fred: Isn't that a legislative problem?

- y) Rep. Conway: The Legislature gets recommendations from the LCB, and usually agrees.
- z) Nate: My experience as past Chairman of the LCB, was that the LCB tried not to expand state FTEs. May not be the best thing to do.
- aa) Rep. Conway: Problem is that we have come through some difficult budget years, and FTEs have been an issue. Maybe a better environment now.
- bb) Tom: **Motion:** The LCB should be supported with adequate enforcement resources and that those resources grow in consideration of population increases and liquor license increases. **Seconded.**
- cc) Anthony: What has been the outcome of not enough enforcement resources? Have there been increases in violations, etc.?
- dd) Tim: If price posting actually goes away, will it free up LCB resources? Nate: Not necessarily – will likely be applied elsewhere.
- ee) Mike: My experience is that industry folks do not turn each other in – for money’s worth, etc. Widely ignored in the industry because there is little enforcement.
- ff) Mike: Amend motion: that increased liquor taxes be utilized to fund LCB enforcement expansion. No 2nd. Amendment dies.
- gg) Mary: We need to look at prevention, too, if increasing taxes. Takes more research to figure it out.
- hh) Tom: The enforcement has to be done. In Seattle, the Seattle Police Department does it themselves – basic safety issues. And when they doing liquor enforcement, they are not doing other things. One of biggest gaps in Seattle is lack of liquor enforcement resources. 2400 liquor licenses, and about 4 enforcement officers in Seattle – they can’t do it all. The lack of resources hurts everyone if there is not enough enforcement.
- ii) Katie: Agree the LCB needs to be supported by adequate enforcement resources.
- jj) Mary: In some areas we are using prevention dollars for law enforcement to do on-site checks.
- kk) Lynn: Call for a vote.
- ll) Steve: The group should also reinforce what the LCB mandate is. Amend the motion to add: the LCB mandate be maintained. No 2nd.
- mm) **Final Motion: The Task Force recommends that the LCB be supported by adequate enforcement resources and that those resources grow in consideration of population increases and increases in liquor licenses.**
- nn) **15 Yeas, 0 Nos. Motion adopted.**
- oo) Wrap up (see presentation 28). Next meeting will be FRIDAY, November 17, to be held on the second floor of the LCB. Meeting will begin at 9:00 and end at 3:00.